

MONTEREY COUNTY CIVIL GRAND JURY



2015-2016 FINAL REPORT



JUNE 30, 2016

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Cover Background:

'Mountain' by David Ligare, oil on canvas, 60" x 90", 2013
Image Courtesy of Winfield Gallery

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June 30, 2016

The Honorable Mark E. Hood
Presiding Judge, Superior Court of California
County of Monterey
240 Church Street
Salinas, CA 93901

Dear Judge Hood:

On behalf of the 2015-2016 Monterey County Civil Grand Jury, I am pleased to submit its Final Report. The Report reflects the efforts of dedicated Monterey County citizens. The Report is the result of many hours that included interviews, research, drafting and collaboration.

The 2015-2016 Monterey County Civil Grand Jury is hopeful that its efforts will benefit the citizens of Monterey County, as well as the public agencies which are the subject of its efforts. However, I would be remiss if I did not observe that much, if not most, of the benefit of the Jury's efforts came not from its formal Reports, but from the interaction between the Jury's investigative Committees and the public employees they interviewed. The showing of interest in a matter often led to changes and improvements in public entity matters not foreseen by the Jury nor reflected in Reports.

The ability of the 2015-2016 Monterey County Civil Grand Jury to accomplish its duties is in no small manner reflective of the support provided by Your Honor, Leslie Girard and Sandra Ontiveros of the Office of County Counsel. That support made all the difference.

Our service as Civil Grand Jurors has been rewarding and educational. It was absolutely worth the time and effort. We thank you for the opportunity to serve our fellow citizens.

Respectfully,



Brandon Hill
Foreperson

2015-2016 MONTEREY COUNTY CIVIL GRAND JURY ROSTER

OFFICERS

Foreperson	Brandon Hill
Foreperson Pro Tem	Jeanne Krener
Recording Secretary	Nancy Wilson-Jones
Corresponding Secretary	Joe Sanchez
Sargent-At-Arms	Craig Bramhall

JURORS

Perla N. Bernardez	Salinas
James C. Bogan	Seaside
Craig A. Bramhall	Seaside
Carol Ann Corpus	Soledad
Susan C. Hoover	Salinas
Jeanne Reese Krener	Carmel
Tim S. Matalka	Salinas
Marilyn McLoughlin	Salinas
Linda M. McMenimon	Carmel Valley
Linda A. Nall	Salinas
Roger S. Powers	Salinas
James Riesenfeld	Carmel
Barbara J. Rodgers	Salinas
Joe Sanchez	Gonzales
Ronald F. Scholl	Carmel Valley
Lois J. Varner	Seaside
Nancy Wilson-Jones	Soledad

2015-2016 MONTEREY COUNTY CIVIL GRAND JURY



Front Row, left to right:

Jeanne Krener, Judge Marla O. Anderson, Presiding Judge Mark E. Hood,
Brandon Hill

Middle row, left to right:

Carol Corpus, James Bogan, Susan Hoover, Linda McMenimon, Lois Varner,
Tim Matalaka, James Riesenfeld, Craig Bramhall

Back row, left to right:

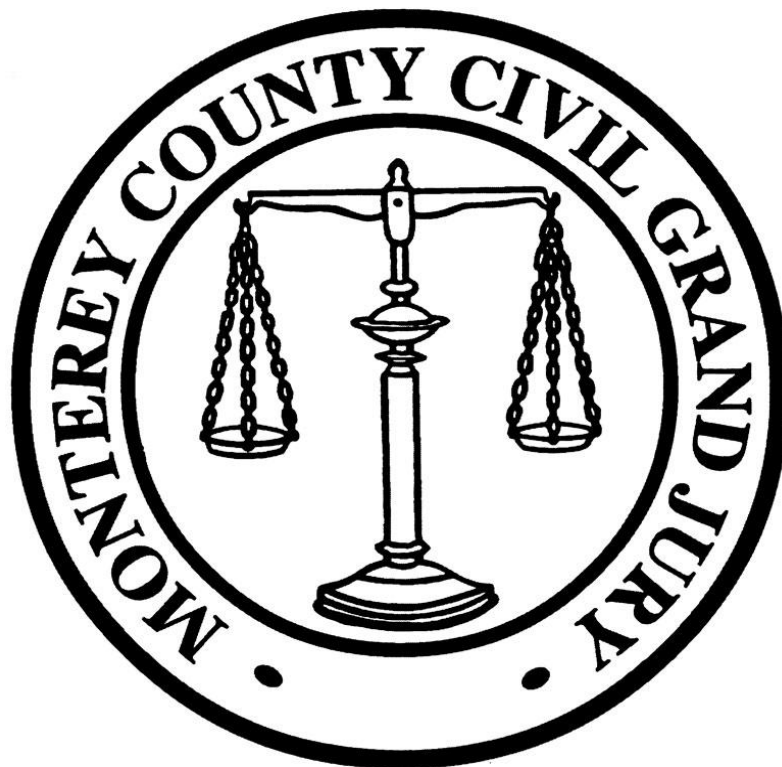
Perla Bernardez, Nancy Wilson-Jones, Barbara Rodgers, Marilyn McLoughlin,
Linda Nall, Ron Scholl, Roger Powers

Not shown:

Joe Sanchez

2015-2016 Monterey County Civil Grand Jury Mission Statement

The mission of the Monterey County Civil Grand Jury is to conduct independent inquiries and to respond to citizen complaints concerning any government agency, municipality, or special district within Monterey County. The reports of the Civil Grand Jury will provide a clear picture of the functioning of the organizations. Recommendations for improvement will be made, and commendations will be offered when effectiveness, efficiency, or excellence is found.



CIVIL GRAND JURY MISSION AND RESPONSE REQUIREMENTS

The primary mission of a civil grand jury in the State of California is to examine county and city governments, as well as districts and other offices, in order to ensure that the responsibilities of these entities are conducted lawfully and efficiently. The civil grand jury is also responsible for recommending measures for improving the functioning and accountability of these organizations, which are intended to serve the public interest.

Jury Selection

Each year, citizens of the county who apply for civil grand jury service are invited to an orientation session for an overview of the process. The court then interviews them, and approximately 40 names are forwarded for inclusion in the annual civil grand jury lottery. During the lottery, 19 panel members are selected, with the remaining to serve as alternates. Those selected to serve are sworn in and instructed to their charge by the presiding judge. Civil grand jurors take an oath of confidentiality regarding any civil grand jury matters for the rest of their lives.

Investigations

Each civil grand jury sets its own rules of procedures and creates committees to investigate and create reports. California Penal Code section 925 states:

The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving ex-officio capacity as officers of the districts.

Additionally, Section 919 prescribes that:

The grand jury shall inquire into the condition and management of the public prisons within the county, including inquiring into willful or corrupt misconduct in office of public officers of every description within the county.

The public may submit directly to the Monterey County Civil Grand Jury complaints requesting that it investigate issues of concern regarding public agencies or official in Monterey County. The public may request complaint forms by contacting the office of the Monterey County Civil Grand Jury at (831) 883-7553 or through the Grand Jury's website address at

www.monterey.courts.ca.gov/grandjury or
<http://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury>.

Grand juries conduct proceedings behind closed doors, as required by law, primarily for the protection of people who file complaints or who testify during investigations. All who appear as witnesses or communicate in writing with a grand jury are protected by strict rules of confidentiality, for which violators are subject to legal sanction.

Reports

Section 933(a) of California Penal Code declares:

Each grand jury shall submit...a final report of its finding and recommendations that pertain to county government matters during the fiscal or calendar year.

The civil grand jury summarizes its findings and makes recommendations in a public report, completed at the end of its yearlong term. Each report is presented to the appropriate department or agency.

Section 933(b) declares:

One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk.

The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

Each report is distributed to public officials, libraries, the news media and any entity that is the subject of any of the reports. The public may also view each year's final report through the Monterey County Civil Grand Jury's website at <http://www.co.monterey.ca.us/government/participate-get-involved/civil-grand-jury> or www.monterey.courts.ca.gov/grandjury.

Content of Responses

Section 933.05 of the California Penal Code declares:

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.

2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

Timeline of Responses

Section 933(c) states:

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendation pertaining to matter under the control of that county officer or agency head any and agency or agencies which that officer or agency head supervises or controls...All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury.

Address for Delivery of Responses

The Honorable Mark E. Hood
Presiding Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, CA 93901

**THE SLOWLY EXPANDING USE OF BODY-WORN VIDEO CAMERAS
BY LAW ENFORCEMENT AGENCIES IN MONTEREY COUNTY**



Photo courtesy of The Safariland Group.www.viewu.com

THE SLOWLY EXPANDING USE OF BODY-WORN VIDEO CAMERAS BY LAW ENFORCEMENT AGENCIES IN MONTEREY COUNTY

SUMMARY

Citizens often take cell phone video recordings of police officers who are involved in a public confrontation with one or more individuals. In response, many law enforcement agencies are using officer body-worn cameras (BWCs) in order to help explain activities from the officer's perspective. In adopting the use of BWCs, it's of critical importance that law enforcement agencies also adopt clearly stated written policies directing their officers on how to use their BWCs, how to download and store recorded videos, and how to maintain the integrity of all recorded information at all times. Many "best practice" models have been published for use in guiding the creation of agency policies, although there are significant differences among those models. The California legislature recently enacted a new Penal Code section, which outlines the types of provisions that must, at a minimum, be included in any state or local agency BWC policy.

This report begins with a brief introduction to BWC technology. While all BWCs perform the same basic function, there are important differences in performance features among available BWC models. There is also continuing debate regarding certain controversial policy issues, which we briefly discuss. We also discuss various police attitudes and cautionary considerations regarding BWC use. Finally, this report presents its findings and recommendations regarding the extent to which BWCs are currently in use by Monterey County law enforcement agencies, specifically identifying those agencies that use BWCs, those that do not, and those who plan to use them at some future date.

We found that six of the fifteen local law enforcement agencies surveyed have obtained and use BWCs on a daily basis. These six agencies have adopted written policies to guide their officers on appropriate BWC use. None of those written policies, however,

complies with the recently enacted California law pertaining to required BWC policy provisions.

Two local police departments are in the process of purchasing BWCs and implementing BWC programs for their departments. Seven law enforcement agencies are not using BWCs; however, six of them favor their use and plan to purchase and employ BWCs at some future date. Only one agency remains uncommitted to their eventual use.

BACKGROUND

The widespread use of cell phones in the United States has made it possible for ordinary citizens to routinely video record police conduct. In recent years there has been widely publicized reporting of bystander recordings that depict, or appear to depict, improper or even criminal conduct by law enforcement personnel.

Citizen videos of questionable police activities have varying quality and evidentiary value. In some cases, the evidentiary value of the recording is high, leaving little if any doubt as to what actually occurred. In other cases the poor quality or other features of the recording result in significant uncertainty and dispute regarding the exact nature or significance of the disputed citizen-officer interaction.

In response to the above uncertainties and resulting concerns, there has been growing interest, both by the public and by law enforcement agencies, in making BWCs (cameras that record both video and audio information) available for use by all law enforcement field personnel on a mandatory basis. BWCs, when appropriately used, respond to public demands for greater law enforcement transparency. They also provide recordings that are of potentially different durations and scope when compared with citizen cell phone recording of the same event. In addition, they are taken from the visual perspective of the officer or officers whose conduct has been called into question. Requiring law enforcement officers to use BWCs also serves as a risk management tool by causing officers to be more conscious of their conduct. Both the American Civil

Liberties Union (ACLU) and law enforcement agencies have, in general, agreed that police use of BWCs, with appropriate safeguards, is a positive development.

The primary purpose of this investigation has been to explore the extent to which BWCs have been put into field use by each city and county law enforcement agency within Monterey County. We have also examined the extent to which each agency has adopted written policies and procedures to direct field officers in the appropriate use of their BWCs, including how to preserve and ensure the integrity of all BWC recordings. In addition, we have reviewed locally adopted policies and procedures in light of applicable California law and other “best practices” policy provisions suggested by various national organizations and by large law enforcement agencies elsewhere in our state.

METHODOLOGY

We conducted sixteen interviews including one or more high-level officials of the Monterey County Sheriff’s Department and of every city police department within the County. We reviewed department policy documents and correspondence, news articles, video transcripts, camera manufacturer literature, model policy documents, and topical publications from many sources. In addition, we studied independently published “white papers”, journal articles, and applicable California law.

DISCUSSION

Before discussing the extent of local BWC use and related department policies, we first consider if and when it is lawful for a citizen to video police officers during law enforcement actions. Then, we discuss various BWC models, compare selected BWC features, and review policy considerations. Finally, we present local department use decisions and practices.

A. CITIZEN’S RIGHT TO VIDEO POLICE AND LEGALLY PROHIBITED POLICE RESPONSES

Several federal appellate courts have ruled that “Recording governmental officers engaged in public duties is a form of speech through which private individuals may gather and disseminate information of public concern, including the conduct of law

enforcement officers.”¹ Furthermore, section 148 of the California Penal Code provides in pertinent part that:²

148. (a)(1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(g) The fact that a person takes a photograph or makes an audio or video recording of a public officer or peace officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, a violation of subdivision (a), nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person.

Thus, California citizens have the right to video record police conduct, subject to Penal Code 148 (a) limitations and the usual “reasonable time, place, and manner” restrictions that are placed on acts protected by the First Amendment to the U.S. Constitution. For example, you cannot record police officers if you are knowingly trespassing on private property (as opposed to recording police in a public place); and you must comply with a police order to step back or record from a reasonable distance under circumstances where a suspect might have a gun or dangerous weapon; and you can't impede police officers in the performance of their duties. Police officers violate the due process clause

¹ Gilk v. Cunniffe, 655 F.3d 78, 82 (1st Cir. 2011).

² California Penal Code, section 148.

of the Fourteenth Amendment when they deprive individuals of their device and its recordings without first providing notice and an opportunity to object.³

In accordance with the law, many law enforcement agencies have adopted written policies that advise their officers that citizens have the right to video record police activity subject to the allowed limitations on that right.

B. THE BASICS OF BODY-WORN VIDEO CAMERAS

BWCs are small lightweight video cameras that law enforcement officers attach to their uniform in order to record their enforcement activities. The BWCs recording function must first be turned on before any event can be recorded. In most cases, once a recording is made, it cannot be edited or deleted in the field by the officer. At the end of an officer's shift, the camera's recordings are downloaded to a computer, a server, or the "cloud" and preserved for later viewing. There are over a dozen BWC manufacturers. Their cameras have many common features and performance functions; however, there are also a number of differences.

C. MANUFACTURE MAKES AND MODELS: THEY'RE NOT ALL THE SAME

Law enforcement agencies in Monterey County that currently provide BWCs for their officers use one of three BWC models, each manufactured by a different company.⁴

1. The "AXON" camera, manufactured by TASAR International, Inc.
2. The "LE3" camera, manufactured by VIEVU, LLC.
3. The "BODYCAM" camera, manufactured by Pro-Vision Systems.

Since each camera performs the same basic functions of video and audio recording, we compare only a few of the more interesting features as shown in **FIGURE 1**.

³ In *Riley v. California*, 134 S. Ct. 2473, 189 L. Ed. 2d 430 (2014) the United States Supreme Court held that an arresting police officer may not conduct a warrantless search of an arrestee's cell phone contents. Doing so constitutes a violation of the Fourth Amendment to the U.S. Constitution.

⁴ Two departments report that they are in the process of purchasing WatchGuard BWCs for future use.

FIGURE 1
BODY-WORN CAMERA MODEL COMPARISON

Feature	Axon ^a	LE3 ^b	BodyCam ^c
			
Weight	3.5 oz.	2.8 oz.	1.6 oz.
Dimensions	2.6x3.3x0.8 in	3x2.1x0.85 in.	2.5x2x1 in.
Field of View	130 degrees	68 deg.	170 deg.
Pre-record buffering	Max 30 sec.	No	No
Charging Time	6 hrs.	3 hrs.	3 hrs.
Recording Time with Normal Use	6-12 hrs.	6-12 hrs.	3-18 hrs.
Low Light Recording	Yes	Yes	Yes
Proprietary Mgmt. Software	Yes, optional	Yes, required	Yes, optional
Still Photos	No	No	Yes
Display Screen	No	No	Yes
Field Access to delete?	No	No	Yes, unless configured to prevent. Also, memory card is removable
BWC Cost (excluding storage)	\$400.00	\$1,000.00	\$580.00

^a AXON body™ Camera Specifications, 10/7/13

^b LE3 Detailed Specification Sheet

^c BODYCAM, HD Body Camera User Guide, undated.

D. LAW ENFORCEMENT BWC POLICIES AND PROCEDURES

There is widespread agreement among state and federal law enforcement agencies that to ensure transparency and increase public trust, it is critically important to have specific

BWC policies and procedures in place with strict enforcement by each agency. These policies must clearly spell out the specific circumstances under which a BWC recording should be made, necessary methods for video data storage for legally required periods of time, and procedures for maintaining data integrity at all times. However, the specific methods by which these goals can be achieved are in certain respects debated and remain unsettled. A few of these key issues are briefly identified in this report, but an in-depth discussion of competing opinions can be found in the list of recommended further reading set forth on **APPENDIX 1**.

1. California's Legislated Policy Requirements

In 2015, the California legislature enacted Assembly Bill 69, which added Section 832.18 to the Penal Code. The terms of that section require law enforcement agencies to implement various “best practices” when establishing policies and procedures for the use of body-worn cameras, including the downloading and storage of BWC video and audio recordings. The required policies and procedures must also prohibit the unauthorized use, duplication, or distribution of the recordings, and establish storage periods for downloaded evidentiary and non-evidentiary recorded data, as explained in the section.

Specifically, there is a listing of eight requirements to be addressed:

1) Identifying the person (or persons) who will be responsible for taking custody of and downloading the recorded data, 2) establishing when data should be downloaded and the cameras maintained for ongoing use and the tagging and categorizing of the downloaded data, 3) establishing specific measures to prevent tampering, deleting, and copying, including prohibiting unauthorized use, copying or distribution of any data, 4) categorizing and tagging the downloaded data according to the type of event recorded, 5) stating the length of time the data is to be stored, 6) stating where the recorded data is to be stored, 7) specifying requirements and safeguards if a 3rd party vendor will be managing the data storage system, and 8) requiring that recorded data be the property of the recording enforcement agency and shall not be accessed or released for any unauthorized purposes.

Section 832.18 (5) distinguishes between the storage of evidentiary and non-evidentiary content. Section 832.18 (c)(1) defines “evidentiary data” as recorded content of an incident or encounter that could prove useful for investigative purposes of a crime, arrest, detention, search, use of force, or a confrontational encounter with a member of the public. By contrast, Section 832.18 (c)(2) defines “non-evidentiary data” as recorded content without value to aid in an investigation such as the recording of an incident or encounter that does not lead to an arrest or citation, or of general activities that the officer might perform while on duty.

Subparagraph (b)(5)(A) in 832.18 requires that non-evidentiary recordings should be held for a minimum of 60 days, while subparagraph (B) requires that evidentiary recordings be stored for a minimum of 2 years if the recorded incident involves the use of force, involves an officer shooting, leads to the detention or arrest of an individual, or relates to a citizen complaint. If relevant to a criminal prosecution, in addition to the 2-year period, subparagraphs (b)(5)(C) and (b)(5)(D) require that the recording be retained for the same time as required by law for other evidence relevant to a criminal prosecution. There is a further requirement that each enforcement agency work with its legal counsel to ensure that storage policies and practices comply with all laws and preserve the evidentiary chain-of-custody. Subparagraph (b)(5)(E) requires that records or logs of any access to or deletion of recordings be retained permanently. Lastly, Section 832.18 (d) states that nothing in section 832.18 shall be interpreted to limit the public’s right to access cell phone or other electronically recorded information under the California Public Records Act.⁵

⁵ California Public Records Act. Gov. Code, § 6250 et seq.

2. Controversial BWC Issues

While Penal Code Section 832.18 may at first glance seem comprehensive, there are ongoing debates regarding a variety of issues. Three frequently publicized examples are summarized below. One key debate concerns whether or not an officer on duty should have his or her BWC continuously recording throughout the officer's shift, recording both evidentiary and non-evidentiary events alike.

In 2013, the ACLU, the leading group supporting civil liberties in the U.S., advocated that BWCs be turned on during an officer's entire shift. That policy would guarantee that an officer could not evade detection while engaging in abuse. Subsequently, a number of objections were raised by groups like the Police Executive Research Forum (PERF), which argue that there are certain situations, in which not recording is a reasonable decision. An agency's body-worn camera policy should expressly describe these situations and provide solid guidance for officers when they exercise discretion not to record.

For example, officer discretion is needed in sensitive situations, such as encounters with crime victims or witnesses who are concerned about retaliation if they are seen as cooperating with the police. In other cases, officer discretion is needed for routine or casual situations—such as officers on foot or bike patrol who wish to chat with neighborhood residents—and turning on a video camera could make the encounter disquieting and seems officious.

Many law enforcement agencies give officers discretion regarding whether to record interviews with victims of rape, abuse, or other sensitive crimes. Some departments also extend this discretion to recording victims of other crimes.

Influenced by these objections, the ACLU modified its position on this issue in 2015. The new policy recommends that BWC policies require an officer to activate his or her camera when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the

public. That would include stops, frisks, searches, arrests, consensual interviews and searches, enforcement actions of all kinds, and any encounter that becomes in any way hostile or confrontational.

A second debate concerns whether or not an officer who records an event should be able to review the contents of the recording before writing his or her report of the event. Some civil libertarian groups contend that reviewing the recording before writing a report prevents the public from testing the credibility of the officer's written report (and the officer). For example, when an Oakland Police officer's BWC videoed a fatal shooting, trial attorneys and the ACLU questioned the policy stating that officers who shoot suspects should have access to such a video because that would give the officer "an opportunity to change [his] report to match the video."

On the other hand, law enforcement agencies argue that officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident since "reviewing footage will help officers remember the incident more clearly, which leads to more accurate documentation of events. The goal is to find the truth, which is facilitated by letting officers have all possible evidence of the event."

Lastly, a third debate concerns the degree to which the public should have access to BWC recordings. Some agencies argue that a recording is akin to an officer's written notes and, as such, should not be available to members of the public not involved in a related criminal prosecution. On the opposite extreme, it is argued that such BWC recordings should always be available to the public at large as a matter of transparency.

According to news reports, these and other subjects were deliberately not addressed in Section 832.18 in order to reach a compromise on the legislation.

E. MODEL "BEST PRACTICES" POLICIES AND PROCEDURES

Apart from the California legislature's listing of minimum "best practices", several organizations have published their own, more comprehensive, "best practices" model

policies that in comparison reveal significant differences in policy perspectives. Such publications are too many and too lengthy to summarize in this report, but a representative few are briefly mentioned below. References for further reading on these and related BWC subjects are listed in **APPENDIX 1**.

1. Office of Community Oriented Policing Services (COPS)

COPS describes itself as the component of the U.S. Department of Justice “responsible for advancing the practice of community policing by the nation’s state, local, territorial, and tribal law agencies through information and grant resources.”⁶ It publishes materials for law enforcement and community stakeholders to use in collaboratively addressing crime. Its free publications are intended to provide those agencies “with best practice approaches” and “access to collective knowledge from the field.”⁷ In 2014, COPS published a report entitled “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned”.⁸ Appendix A of that report contains a matrix summary of the COPS policy recommendations. Among many other provisions, the template contains the following recommendations:

- The policy should specifically define the circumstances when a user should record an event and when the user has the discretion to record or not to record.
- The camera should be switched on when a recording might support professional observations or would corroborate what would be written in a pocket book.
- The decision to record or not record any incident remains with the user.
- Users should not indiscriminately record entire duties or patrols.
- Any recorded image must not be deleted by the user and must be retained as required by the procedures. Any breach of the procedures may render the user liable to disciplinary action or adverse comment in criminal proceedings.
- Officers should be permitted to review video footage of an incident in which they were involved, prior to making a statement about the incident.

⁶ <http://www.cops.usdoj.gov/about>

⁷ <http://www.cops.usdoj.gov/COPSpublications>

⁸ Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned”. Washington, DC: Office of Community Oriented Policing Services (COPS). ISBN: 978-1-934485-26-2," n.d.

- Written policies should clearly describe the circumstances in which supervisors will be authorized to review an officer's BWC footage.
- Agencies should have clear and consistent protocols for releasing BWC recordings to the public and the news media (a.k.a. public disclosure policies). Each agency's policy must comply with the agency's state public disclosure laws (often known as public records acts).
- Agencies should conduct periodic reviews of their BWC policies and protocols.

2. American Civil Liberties Union

The ACLU believes that cameras have the potential to be a win-win, helping protect the public against police misconduct, and at the same time helping protect police against false accusations of abuse. As mentioned above, the ACLU also agrees that because of privacy concerns, BWC policies should only require an officer to activate the BWC when responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the public. However, in those situations, recording should not be discretionary; it should be required in order to "preserve the core purpose of detecting police misconduct."

In addition to officer privacy concerns expressed by the ACLU, there are potential problems raised by recording activities protected by the First Amendment, by mass surveillance in crowded cities, and by facial recognition efforts. In addition, people recorded by BWCs should have access to, and the right to make copies of, those recordings, for however long the government maintains copies of them. That should also apply to disclosure to a third party if the subject consents, or to criminal defense lawyers seeking relevant evidence. In summary:

- For the ACLU, the challenge of a BWC is the tension between their potential to invade privacy and their strong benefit in promoting police accountability.
- It is vital that any deployment of these cameras be accompanied by good privacy policies, so that the benefits of the technology are not outweighed by invasions of privacy.

3. Lexipol

Lexipol is a commercial subscription service intended for use by law enforcement agencies. It describes itself as a “provider of risk management policies and resources,”⁹ including state-specific policy manuals and police updates based on federal and state statutes, case law, regulations and best practices. Several local law enforcement agencies rely on the Lexipol service for the creation of their written policies and policy-driven procedures. The Lexipol policies are basic templates, which can be edited and supplemented by the subscribing local agency to reflect local decision-making. Since the Civil Grand Jury is not a Lexipol subscriber, we can only examine those Lexipol publications that have been adopted by several local agencies as part of their policies and procedures manuals. These will be examined in detail later in this report for Lexipol’s position on key issues. An example of a Lexipol BWC policy is found in **APPENDIX 2.**

4. Conflicting California Agency Provisions

To illustrate the lack of policy uniformity among specific law enforcement agencies within the state, consider the following examples:

- Los Angeles Police Department’s Policy. L.A.’s officers are required to review BWC recordings on their assigned device or authorized computer prior to documenting an incident, arrest, search, interview, use of force, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.
- Santa Clara Police Department’s Policy. In the case of an officer involved shooting or serious use-of-force incident, an involved officer will be required to give an initial account of events before being permitted to view the BWC video and give additional statements.¹⁰

F. CAUTIONARY FACTORS TO CONSIDER WHEN INTERPRETING BWC RECORDINGS

PoliceOne.com is an online resource for law enforcement. Its stated mission is “to provide officers with information and resources that make them better able to protect

⁹ <http://www.lexipol.com>

¹⁰ “Santa Clara Outfits Officers With Body-Worn Cameras”, *San Jose Mercury News*, 11/25/2015, <http://www.mercurynews.com>

their communities and stay safer on the streets.” In September 2014, *Police One* published an article by The Force Science Institute entitled “10 Limitations of Body Cams You Need to Know for Your Protection”.¹¹ The suggested limitations are presented here in brief, without the explanations that accompanied each point.

1. A camera doesn’t follow your eyes or see what or how they see.
2. Some important danger cues can’t be recorded. For example, a suspect suddenly tenses while an officer holds the suspect’s arm.
3. Camera speed differs from the speed of life.
4. A camera may see better than you do in low light.
5. Depending on location and angle, a picture may be blocked by your own body parts, from your nose to your hands.
6. A camera only records in 2-D.
7. The absence of time-stamping in seconds or fractions of seconds may prove critical.
8. One camera may not be enough to eliminate uncertainties.
9. A camera encourages second-guessing by the public.
10. A camera can never replace a thorough investigation.

G. POLICE OFFICER POINTS OF VIEW

In November 2014, PoliceOne polled 1500 police officers to explore officer experiences, thoughts and concerns regarding body cameras.¹² Some results were:

- Only 21.9 percent did not have body cameras or did not anticipate getting them in the near future.
- 33.7 percent said their biggest concern was “A lack of privacy of officers wearing them”.
- 28.7 percent said their biggest concern was that cameras could “pose a physical liability”.

¹¹ Institute, Force Science. "10 Limitations of Body Cams You Need to Know for Your Protection". PoliceOne, September 2014.

¹² Staff Writers. "Poll Results: Cops Speak Out About Body Cameras." PoliceOne. November 12, 2014. <http://www.PoliceOne.com>.

- An unspecified percentage was concerned about an invasion of privacy for people who call the police to their home.
- A second unspecified percentage was concerned about the “ability for public to ‘arm-chair quarterback’ decisions officers have to make in the heat of the moment.”
- A third unspecified percentage worried about becoming too concerned with camera activation, taking away from officer safety.
- A fourth unspecified percentage pointed out that what a camera records does not equate to the totality of what an officer perceives.
- Others, however, felt that such recordings made their department more transparent and would eliminate 90% of unfounded citizen complaints. Stated differently by some: “Video footage is much more likely to get a cop out of trouble than in trouble.”
- In addition, of those who had misgivings, 67.7 percent would want their department equipped with BWCs despite their concerns.

THE USE OF BODY-WORN CAMERAS BY MONTEREY COUNTY LAW ENFORCEMENT AGENCIES

The following are necessarily brief summaries regarding each of the fifteen law enforcement agencies in Monterey County.

A. CALIFORNIA HIGHWAY PATROL

The California Highway Patrol (CHP) does not currently employ BWCs. However, in June of 2015, Governor Brown signed Senate Bill 85, Section 1 of which requires the CHP to develop a plan for implementing a BWC pilot program on or before January 1, 2016. The budget to develop the pilot program is \$1 million. The implementation plan must include, among other things, the minimum specifications for BWCs to be used in a BWC program; the “best practices” for officer review of BWC recordings; and “best practices” for sharing BWC recordings internally and externally. A plan has been drafted and is currently awaiting final approval.

B. CARMEL-BY-THE-SEA POLICE DEPARTMENT

The Carmel-by-the-Sea (Carmel) Police Department does not provide BWCs for its officers, even though the Department's position is that such cameras are a "great tool" and that there is a very positive attitude regarding their use. It is the department's position, however, that the department's purchase and use of BWCs at this time would be premature. Management wants to see how available cameras perform in the field, and whether conflicting views relating to BWC policies and procedures become settled among police forces. Management also expects Lexipol to develop standardized policies and procedures as part of its subscription service. Management believes that its preconditions to BWC use will be resolved in the next 1-2 years. At that time, the department will purchase 15 cameras (Carmel has 15 sworn officers) with associated data management software and any additional storage capability that may be needed.

C. DEL REY OAKS POLICE DEPARTMENT

The Del Rey Oaks Police Department does not yet use BWCs, but is in the process of ordering six of them. The specific camera chosen is the Vista camera manufactured by WatchGuard. That selection was based on the reputation of the manufacturer. Five full-time officers plus the chief (total 6 officers) will be assigned the new cameras. BWCs will not be provided to the department's 18 reserve officers. The department does not yet have any written policy or procedures for using the cameras. After the BWCs have been delivered, the department will review policies published by others and adopt a policy for the department.

D. GONZALES POLICE DEPARTMENT

The Gonzales Police Department began using BWCs in August 2015. The camera selected is the BODYCAM by Pro-Vision. Although the department consists of only nine police officers, an animal control officer and the chief, 25 cameras were purchased so that each patrol officer could have a backup camera and there would be additional cameras for personnel expansion. The department has adopted a written policy related to video recording. It is the Lexipol policy entitled "Portable Audio/ Visual Recorders", which the department has labeled as Policy 465 in its own policy manual. Policy 465 provides guidelines for the use of various types of recording devices, including BWCs.

E. GREENFIELD POLICE DEPARTMENT

The Greenfield Police Department provides BWCs for their officers. The Department currently has 15 BWCs, with five more expected as personnel is added to the force. The camera selected is the LE3 manufactured by VIEVU. Downloaded recordings are stored on a local server. Greenfield also adopted a Lexipol policy entitled “Portable Audio/Video Recorders”, which provides guidelines for using portable audio/video recording devices, including BWCs, by members of the department while performing their duties. Greenfield’s BWC policy indicates that it was adopted in November 2014 and has been internally numbered as Policy 450.

F. KING CITY POLICE DEPARTMENT

The department recently appointed an interim chief, but prior to his appointment; the department had already acquired 32 BWCs for use by its 16 officers (one to be assigned and one as a backup). All officers were trained and the BWCs were put into daily use in January 2016. The BWC selected by the department is the BODYCAM model manufactured by Pro-Vision, and the department officials are very impressed by its clear sound and images. The King City department has adopted a version of the Lexipol Policy entitled “Portable Audio/Video Recorders”, which provides guidelines for the use of portable audio/video recording devices, specifically including BWCs.

G. MARINA POLICE DEPARTMENT

The Marina Police Department does not use BWCs, but the department intends to do so and has assigned a department commander to research available choices, their cost, their recording storage requirements, and whether or not they can be integrated with the department’s currently used in-car dashboard camera system. The department’s storage capacity will probably have to be increased, but the department plan is to have BWCs available for routine use by the end of July 2016, the end of its fiscal year. If the cost of the cameras and storage system is more than can be covered within the department’s current budget, the department will seek the necessary funding from the city council. When funded, the department expects to purchase 24-26 LE3 cameras, which are made by the same manufacturer that makes the department’s in-car camera system. No written policies or procedures have yet been developed for BWC use, but

when developed they will reflect “best practices” provisions. For example, they will contain a provision allowing officers to review their recordings before writing up an incident report and will allow public access in accordance with the California Public Records Act.

H. CITY OF MONTEREY POLICE DEPARTMENT

In May 2016 this department announced the planned purchase of WatchGuard BWCs for use by its police officers. The Watchguard BWCs are manufactured by the same company that manufactures the department’s in-car camera system, and the two systems will be closely integrated. The BWCs are expected to become available and ready to use in early 2017.

I. MONTEREY COUNTY SHERIFF’S DEPARTMENT

The Monterey County Sheriff’s Department does not provide BWCs for its deputies. The Department is considering future BWC use but is not currently committed to their use. Management would first need to find funding for the cameras and related storage capacity; go through the camera and vendor selection processes; develop a “best practices” policy; and work through the issues with the police union before that could happen. It’s estimated that the department might obtain BWCs within 2-5 years.

J. MONTEREY REGIONAL AIRPORT POLICE DEPARTMENT

In 2012, the Airport Police Department became the first law enforcement agency in Monterey County to put BWCs into daily use. Five officers currently use the VIEVU camera and, like several other law enforcement agencies, the department has adopted a version of Lexipol Policy 450 relating to the use of audio/video recorders.

K. PACIFIC GROVE POLICE DEPARTMENT

This department does not provide BWCs for its officers, although past and present department officials are in favor of BWC use by the department. Lack of funding prevents the implementation of a BWC program during the current fiscal year. Initial review of various BWC choices and storage options is now in progress.

L. SALINAS POLICE DEPARTMENT

In mid-2015, the Salinas Police Department adopted and put into daily use the most sophisticated BWC program in Monterey County. It employs the Axon camera manufactured by TASAR International, Inc. and proprietary software,¹³ which enables the BWC to automatically download its recorded data to a third party cloud storage facility. The recordings are transferred at the same time that the camera is recharging in its charging station. The cameras are routinely worn by all patrol officers and sergeants, as well as supervisors when they are “on the street” in uniform. There are 110 BWCs, including those that are assigned to officers plus three extras. The cost of each camera was \$400, but averaging in monthly off-site video storage charges brings the monthly total cost of a camera and its storage charges to \$93.00.

As is commonly the case locally, the department has adopted a modified Lexipol policy, internally labeled as Policy 447 in the department’s policy manual. As with many law enforcement agencies, the policy allows for officer review of a recording before writing the corresponding incident report, and the policy only requires event recording under specified circumstances rather than continuously. This department’s BWC policy is more detailed than those of the other local departments’ written policies.

M. SAND CITY POLICE DEPARTMENT

This department does not provide BWCs for its officers. Although the use of BWCs is favored, lack of funding has to date prevented the implementation of a BWC program.

N. SEASIDE POLICE DEPARTMENT

This department does not provide BWCs for its officers. Although the use of BWCs is favored, lack of funding has prevented the implementation of a BWC program to date.

O. SOLEDAD POLICE DEPARTMENT

The department purchased BODYCAM units for its officers in December 2014. However, the BWCs have not been put into daily use due to prolonged technical difficulties in obtaining and properly configuring the necessary video storage capability.

¹³ Evidence.com™

In February 2016, the department terminated its reliance on the previously-hired technical service company and hired another in anticipation of correcting the existing technical problems in the near future. As of late May 2016 the technical video storage issues had not yet been resolved.

P. SUMMARY OF LOCAL LAW ENFORCEMENT’S BWC USE

A comparative summary of BWC use by the fifteen local law enforcement agencies in Monterey County is shown in **FIGURE 2**, along with selected features of the BWCs in use. Six agencies have BWCs and have put them into daily use by their officers. Two other agencies (City of Monterey and Del Rey Oaks) are currently moving forward with planned BWC acquisition and use. Six of the seven remaining agencies favor their use but are not yet moving forward because of a lack of funding or other considerations. One agency is currently not committed to the future use of BWCs. All six agencies using BWCs have adopted Lexipol-based written BWC policies.

LOCAL BWC POLICIES AND CALIFORNIA’S LEGAL REQUIREMENTS

As demonstrated in **FIGURE 3**, none of the local BWC policies meets current California legal requirements. However, prior to the adoption of Penal Code Section 832.18 in October 2015, law enforcement agencies in California were without guidance as to what might eventually be legally required for BWC usage in California. Each department structured its policy based on varying degrees of policy research. In addition, since the new Penal Code provisions did not become effective until January 1, 2016, it is possible that local policy revisions are now being considered by those agencies using BWCs.

THE EXTENT TO WHICH BODY WORN CAMERAS ARE CURRENTLY IN USE BY MONTEREY COUNTY LAW ENFORCEMENT AGENCIES						
LAW ENFORCEMENT DEPARTMENT	BODY-WORN CAMERAS CURRENTLY USED?	DEPTS PLANNING FUTURE BWC PROGRAM	CAMERA MAKE & MODEL	WRITTEN POLICY CONCERNING BWC USE AND DATA STORAGE	DATA RETENTION PERIOD	EXTENT OF OFFICER ACCESS TO RECORDED DATA IN FIELD
CALIFORNIA HIGHWAY PATROL	NO	YES - PILOT PROGRAM TO START IN 2016	NONE SPECIFIED	Not Applicable (N/A)	N/A	N/A
CARMEL-BY-THE-SEA	NO	YES - IN 2-5 YEARS	NOT APPLICABLE	N/A	N/A	N/A
DEL REY OAKS	NO	YES -CAMERAS ON ORDER	"VISTA" BY WATCH GUARD	NO	UNSPECIFIED	NONE
GREENFIELD	YES	N/A	"LE3" BY VIEWU	YES	1-2 YRS.	NONE
GONZALES	YES	N/A	"BODYCAM" BY PRO-VISION	YES	MINIMUM OF 180 DAYS	ABLE TO REVIEW. CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT
KING CITY	YES	IMPLIMENTED IN JANUARY 2016	"BODYCAM" BY PRO-VISION	YES	5 YEARS	ABLE TO REVIEW. CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT
MARINA	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
MONTEREY (CITY)	NO	CURRENTLY PURCHASING BWCs FOR OFFICER USE BEGINNING IN EARLY 2017	"VISTA HD WI-FI" BY WATCHGUARD	N/A	N/A	NONE
MONTEREY (SHERIFF)	NO	INDEFINITELY CONSIDERING, BUT NOT COMMITTED TO THEIR USE.	N/A	N/A	N/A	N/A
MO. REGIONAL AIRPORT	YES	N/A	"LE3" BY VIEWU	YES	NO POLICY	NONE
PACIFIC GROVE	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SALINAS	YES	N/A	AXON BY TASAR	YES	UNTIL "MATTER RESOLVED" OR REQUIRED BY LAW.	NONE
SAND CITY	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SEASIDE	NO	YES - NEED TO SECURE FINANCING	N/A	N/A	N/A	N/A
SOLEDAD	YES	N/A	"BODYCAM" BY PRO-VISION	YES	MINIMUM OF 180 DAYS	CAN REVIEW. CAN ALSO DELETE UNLESS CONFIGURED TO PREVENT
FIGURE 2						

Figure 3

**Department Written Compliance with California Penal Code Section
832.18 "Best Practices" Policy Requirements**

Item	Legal Requirements	Gonzales L450	Greenfield L450	King City L450	Monterey Airport L450	Salinas L447	Soledad L450
1	Designates a person for downloading	No	No	No	No		
2	Supervisor to take immediate custody & downloads if serious incident recorded	No	No		No	No	No
3	Establishes timely data downloads; ensures proper maintenance, ready for next use, tagging and categorizing data	No	No	No	No		
4	Establishes measures to prevent data tampering, deleting, copying or unauthorized use and distribution	Partially	Partially	Partially	Partially	Partially	Partially
5	Downloaded recordings to categorized, tagged and classified by type at time of downloading	No	No	No	No	No	No
6	State specific times to store recordings. Store for a minimum of 60 days before delete, destroy or recycle	Partially	Partially	Partially	Partially	Partially	Partially
7	Store for 2 years if incident involves use of force, police shooting, detention, arrest of an individual, or relevant to citizen complaint plus any additional time required by law if relevant to a criminal proceeding.	No	No	No	No	Partially	No
8	Work with agency legal counsel to ensure storage times, policies and practices complies with all relevant laws and preserves evidence chain of custody	Not regarding current law	Not regarding current law	Not regarding current law	Not regarding current law	Not regarding current law	Not regarding current law
9	Permanently retain all logs or records of access to and deletion of data	No	No	No	No	No	No
10	State specifically where data is to be stored, including, for example, if data to be stored on in-house server managed locally or on-line data base managed by third party vendor	No	No	No	No	Yes	No
11	If using a third party vendor, must consider listed factors to insure security and integrity of data	No vendor	No vendor	No vendor	No vendor	Yes	No vendor
12	Include sanctions for unauthorized access or release of recorded data	No	No	No	No	Partially	No
13	Explicitly prohibits agency personnel from accessing recorded data for personal use, including uploading onto public or social web sites.	Yes	Yes	Yes	Yes	Yes	Yes

FINDINGS

- F1. The use of BWCs responds to public demands for greater law enforcement transparency.
- F2. BWCs, when recording lawful police conduct, provide positive risk management benefits.
- F3. BWC recordings can serve as a valuable officer training resource.
- F4. Law enforcement best practices now include law enforcement's use of BWCs when funds have been made available for their purchase and that of required data storage capacity.
- F5. At a minimum in California, written department policies must comply with the requirements of Penal Code Section 832.18. (**Appendix 3**)
- F6. In the absence of other sources of funding, each City Council must make sufficient funds available to its police department before the department can purchase BWCs for its officers and a secure storage system for resulting BWC recordings.
- F7. In the absence of other sources of funding, the county Board of Supervisors must make sufficient funds available to its Sheriff's department before the department can purchase BWCs for its deputies and a secure storage system for resulting BWC recordings.
- F8. The BODYCAM[®] BWC described in this report stores recordings on a removable Micro-SD memory card.
- F9. The BODYCAM[®] BWC described in this report enables any user to delete one or all recorded videos unless those camera functions are disabled by an appropriately trained BODYCAM[®] administrator or a manufacturer's representative.
- F10. Because the BODYCAM[®] BWC allows the Micro-SD card to be removed from the camera, it is possible for an officer to remove and read the card on an unauthorized computer and to delete or modify recorded data, contrary to the specific prohibitions of Penal Code section 832.18.

- F11. The Carmel Police Department does not provide BWCs for its officers' use although the department favors their use.
- F12. The Del Rey Oaks Police Department is in the process of ordering BWCs for its officers' use.
- F13. The Greenfield Police Department provides BWCs for its officers' use in accordance with a written department policy.
- F14. The Greenfield Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F15. The Gonzales Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- F16. The Gonzales Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F17. The Gonzales Police Department uses the BODYCAM[®] BWC.
- F18. The King City Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- F19. The King City Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F20. The King City Police Department uses the BODYCAM[®] BWC.
- F21. The Marina Police Department does not provide BWCs for its officers' use, but the department favors their use and plans to acquire them.
- F22. The City of Monterey Police Department is currently in the process of ordering BWCs for its officers' use.
- F23. The Monterey County Sheriff's Department does not provide BWCs for its deputies' use.
- F24. The Monterey Regional Airport Police Department provides BWCs for its officers' use in accordance with an official, but only oral, department policy regarding their use.
- F25. The Monterey Regional Airport Police Department's BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F26. The Pacific Grove Police Department does not provide BWCs for its officers' use.

- F27. The Salinas Police Department provides BWCs for its officers' use in accordance with a written department policy regarding their use.
- F28. The Salinas Police Department's written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F29. The Sand City Police Department does not provide BWCs for its officers' use, although the department favors their use.
- F30. The Seaside Police Department does not provide BWCs for its officers' use, although the department favors their use.
- F31. The Soledad Police Department provides BWCs for its officers' use.
- F32. The Soledad Police Department's draft written BWC policy does not meet all of the requirements of Penal Code Section 832.18.
- F33. The Soledad Police Department uses the BODYCAM[®] BWC.

RECOMMENDATIONS

- R1. As part of the Carmel-by-the-Sea Police Department's next annual budget request (or before) the Department shall apply to the Carmel-by-the-Sea City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R2. As part of the Carmel-by-the-Sea Police Department's next annual budget allocation (or before) the Carmel-By-The-Sea City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R3. The Carmel-by-the-Sea Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R4. The chief of the Carmel-by-the-Sea Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.

- R5. The chief of the Carmel-by-the-Sea Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R6. The Del Rey Oaks Police Department shall provide body-worn cameras for each of its officers promptly after they receive the cameras they have ordered.
- R7. The Del Rey Oaks Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R8. The chief of the Del Rey Oaks Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R9. The chief of the Del Rey Oaks Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R10. The chief of the Greenfield Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R11. The chief of the Greenfield Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R12. The chief of the Gonzales Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.

- R13. The chief of the Gonzales Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R14. The chief of the Gonzales Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM[®] cameras from deleting or in any way altering the BWC video recordings at any time before the recordings are downloaded to the system's secure server.
- R15. The chief of the Gonzales Police Department shall take all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory card from the camera at any time before the recordings are downloaded to the system's secure server.
- R16. The chief of the King City Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R17. The chief of the King City Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R18. The chief of the King City Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM cameras from deleting or in any way altering video recordings at any time before the recordings are downloaded to the system's secure server.
- R19. The chief of the King City Police Department shall take all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory

card from the camera at any time before the recordings are downloaded to the system's secure server.

- R20. As part of the Marina Police Department's next annual budget request (or before) the Department shall apply to the Marina City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R21. As part of the Marina Police Department's next annual budget allocation (or before) the Marina City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R22. The Marina Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R23. The chief of the Marina Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R24. The chief of the Marina Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R25. The City of Monterey Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R26. The chief of the City of Monterey Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R27. The chief of the City of Monterey Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws

relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.

- R28. As part of the Sheriff's Department's next annual budget request (or before) the Sheriff's Department shall apply to the County Board of Supervisors for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R29. As part of the Sheriff's next annual budget allocation (or before) the County Board of Supervisors shall provide funds sufficient to enable the Sheriff's Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R30. The Sheriff's Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R31. The Sheriff of Monterey County shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R32. The Sheriff shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R33. The chief of the Airport Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy, to revise the policy to include, at a minimum, the "best practices" of set forth in California Penal Code 832.18, and to convert the policy to written form.
- R34. The chief of the Airport Police Department shall meet with the department's legal counsel at least annually to review the state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.

- R35. As part of the Pacific Grove Police Department's next annual budget request (or before) the Department shall apply to the Pacific Grove City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R36. As part of the Pacific Grove Police Department's next annual budget allocation (or before) the City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R37. The Pacific Grove Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R38. The chief of the Pacific Grove Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R39. The chief of the Pacific Grove Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R40. The chief of the Salinas Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" set forth in California Penal Code 832.18.
- R41. The chief of the Salinas Police Department shall meet with the department's legal counsel at least annually to review the then current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R42. As part of the Sand City Police Department's next annual budget request (or before) the Department shall apply to the Sand City City Council for funds

sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.

- R43. As part of the Sand City Police Department's next annual budget allocation (or before) the Sand City City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R44. The Sand City Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.
- R45. The chief of the Sand City Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R46. The chief of the Sand City Police Department shall meet with the department's legal counsel at least annually to review the then current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R47. As part of the Seaside Police Department's next annual budget request (or before) the Department shall apply to the Seaside City Council for funds sufficient to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R48. As part of the Seaside Police Department's next annual budget allocation (or before) the Seaside City Council shall provide funds sufficient to enable the Police Department to purchase body-worn cameras of the department's choosing for each officer and for a secure data storage system with adequate capacity to store the data recorded by those cameras.
- R49. The Seaside Police Department shall adopt a written body-worn camera policy, which at a minimum includes the "best practices" set forth in California Penal Code 832.18.

- R50. The chief of the Seaside Police Department shall meet with the department's legal counsel to review the legal sufficiency of the department's proposed body-worn camera policy before it is adopted by the department.
- R51. The chief of the Seaside Police Department shall meet with the department's legal counsel at least annually to review the then-current state laws relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R52. The chief of the Soledad Police Department shall meet with the department's legal counsel as soon as the meeting can be arranged to review the legal sufficiency of the department's existing body-worn camera policy and to revise the policy to include, at a minimum, the "best practices" of set forth in California Penal Code 832.18.
- R53. The chief of the Soledad Police Department shall meet with the department's legal counsel at least annually to review the then-current state law relating to the use of body-worn cameras and the storage of their recordings, and to revise department policy if necessary to comply with such laws.
- R54. The chief of the Soledad Police Department shall take all steps necessary to ensure that each BODYCAM camera's settings are adjusted by an appropriately trained senior officer to prevent all officers using the BODYCAM cameras from deleting or in any way altering video recordings at any time before the recordings are downloaded to the system's secure server.
- R55. The chief of the Soledad Police Department shall takes all steps necessary to ensure that the Department's written body-worn camera policy specifically prohibits officers using the BODYCAM cameras from removing the flash memory card from the camera at any time before the recordings are downloaded to the system's secure server.
- R56. The chief of the Soledad police department, the Soledad City Council and the Soledad City Manager shall designate as a priority matter the proper completion of the BWC video storage system so that the existing BWCs can be put into daily use by the Soledad police officers on or before August 15, 2016.

REQUIRED RESPONSES

Pursuant to Penal Code Section 933.05, the Civil Grand Jury requests a response as indicated below from the following law enforcement officials and governing bodies:

[Note: Where a hyphen appears between two Findings (F) or two Recommendations (R) you are to respond to the complete indicated range of Findings or Recommendations.]

1. Carmel-by-the-Sea Police Chief

Findings: F1- F6, F11

Recommendations: R1-R5

2. Carmel-by-the-Sea City Council

Findings: F1- F6, F11

Recommendations: R1-R5

3. Del Rey Oaks Police Chief

Findings: F1 - F6, F12

Recommendations: R6-R9

4. Del Rey Oaks City Council

Findings: F1- F6, F12

Recommendations: R6-R9

5. Greenfield Police Chief

Findings: F5, F13, F14

Recommendations: R10, R11

6. Greenfield City Council

Findings: F5, F13, F14

Recommendations: R10, R11

7. Gonzales Police Department
Findings: F5, F8-F10, F15- F17
Recommendations: R12-R15
8. Gonzales City Council
Findings: F5, F8-F10, F15-F17
Recommendations: R12-R15
9. King City Police Chief
Findings: F5, F8-F10, F18-F20
Recommendations: R16-R19
10. King City City Council
Findings: F5, F8-F10, F18-R20,
Recommendations: R16-R19
11. Marina Police Chief
Findings: F1 - F6, F21
Recommendations: R20-R24
12. Marina City Council
Findings: F1 - F6, F21
Recommendations: R20-R24
13. City of Monterey Police Chief
Findings: F5, F22
Recommendations: R25-R27
14. City of Monterey City Council
Findings: F5, F22
Recommendations: R25-R27

15. Sheriff of Monterey County
Findings: F1 - F5, F7, F23
Recommendations: R28–R32
16. Monterey County Board of Supervisors
Findings: F1 – F5, F7, F23
Recommendations: R28-R32
17. Monterey Regional Airport District Police Chief
Findings: F5, F24-F25
Recommendations: R33, R34
18. Monterey Regional Airport District
Findings: F1 - F5, F24-F25
Recommendations: R33, R34
19. Pacific Grove Police Chief
Findings: F1 - F6, F26
Recommendations: R35- R39
20. Pacific Grove City Council
Findings: F1 - F6, F26
Recommendations: R35-R39
21. Salinas Police Chief
Findings: F1 - F5, F27, F28
Recommendations: R40, R41
22. Salinas City Council
Findings: F5, F27, F28
Recommendations: R40, R41

23. Sand City Police Chief
Findings: F1 - F6, F29
Recommendations: R42-R46
24. Sand City City Council
Findings: F1 - F6, F29
Recommendations: R42-R46
25. Seaside Police Chief
Findings: F1 - F6, F30
Recommendations: R47-R51
26. Seaside City Council
Findings: F1 - F6, F30
Recommendations: R47-R51
27. Soledad Police Chief
Findings: F5, F8-F10, F31-F33
Recommendations: R52-R56
28. Soledad City Council
Findings: F5, F8-F10, F31-F33
Recommendations: R52-R56

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APPENDIX 1

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APPENDIX 2

Policy Manual

450

Portable Audio/Video Recorders

450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes or to mobile audio/video recordings (see the Investigation and Prosecution and Mobile Audio/Video policies).

450.2 POLICY

The Greenfield Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

450.3 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the Department regardless of whether those recordings were made with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

450.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever possible.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.

When using a portable recorder, the assigned member shall record his/her name, GPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

450.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Monterey County Department of Emergency Communications
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as practicable.

450.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

450.5.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

450.5.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

450.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

450.7 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

450.7.1 RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

450.8 REVIEW OF RECORDINGS

When preparing written reports, members should review their recordings as a resource. However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Release and Security Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Release and Security Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.



AB-69 Peace officers: body-worn cameras. (2015-2016)

Assembly Bill No. 69

CHAPTER 461

An act to add Section 832.18 to the Penal Code, relating to peace officers.

[Approved by Governor October 03, 2015. Filed with Secretary of State
October 03, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 69, Rodriguez. Peace officers: body-worn cameras.

Existing law makes it a crime to intentionally record a confidential communication without the consent of all parties to the communication. Existing law exempts specified peace officers from that provision if they are acting within the scope of their authority.

This bill would require law enforcement agencies to consider specified best practices when establishing policies and procedures for downloading and storing data from body-worn cameras, including, among other things, prohibiting the unauthorized use, duplication, or distribution of the data, and establishing storage periods for evidentiary and nonevidentiary data, as defined.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 832.18 is added to the Penal Code, to read:

832.18. (a) It is the intent of the Legislature to establish policies and procedures to address issues related to the downloading and storage data recorded by a body-worn camera worn by a peace officer. These policies and procedures shall be based on best practices.

(b) When establishing policies and procedures for the implementation and operation of a body-worn camera system, law enforcement agencies, departments, or entities shall consider the following best practices regarding the downloading and storage of body-worn camera data:

(1) Designate the person responsible for downloading the recorded data from the body-worn camera. If the storage system does not have automatic downloading capability, the officer's supervisor should take immediate physical custody of the camera and should be responsible for downloading the data in the case of an incident involving the use of force by an officer, an officer-involved shooting, or other serious incident.

(2) Establish when data should be downloaded to ensure the data is entered into the system in a timely manner, the cameras are properly maintained and ready for the next use, and for purposes of tagging and categorizing the data.

(3) Establish specific measures to prevent data tampering, deleting, and copying, including prohibiting the unauthorized use, duplication, or distribution of body-worn camera data.

(4) Categorize and tag body-worn camera video at the time the data is downloaded and classified according to the type of event or incident captured in the data.

(5) Specifically state the length of time that recorded data is to be stored.

(A) Unless subparagraph (B) or (C) applies, nonevidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. An agency may keep data for more than 60 days to have it available in case of a citizen complaint and to preserve transparency.

(B) Evidentiary data including video and audio recorded by a body-worn camera under this section should be retained for a minimum of two years under any of the following circumstances:

(i) The recording is of an incident involving the use of force by a peace officer or an officer-involved shooting.

(ii) The recording is of an incident that leads to the detention or arrest of an individual.

(iii) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.

(C) If evidence that may be relevant to a criminal prosecution is obtained from a recording made by a body-worn camera under this section, the law enforcement agency should retain the recording for any time in addition to that specified in paragraphs (A) and (B), and in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution.

(D) In determining a retention schedule, the agency should work with its legal counsel to determine a retention schedule to ensure that storage policies and practices are in compliance with all relevant laws and adequately preserve evidentiary chains of custody.

(E) Records or logs of access and deletion of data from body-worn cameras should be retained permanently.

(6) State where the body-worn camera data will be stored, including, for example, an in-house server which is managed internally, or an online cloud database which is managed by a third-party vendor.

(7) If using a third-party vendor to manage the data storage system, the following factors should be considered to protect the security and integrity of the data:

(A) Using an experienced and reputable third-party vendor.

(B) Entering into contracts that govern the vendor relationship and protect the agency's data.

(C) Using a system that has a built-in audit trail to prevent data tampering and unauthorized access.

(D) Using a system that has a reliable method for automatically backing up data for storage.

(E) Consulting with internal legal counsel to ensure the method of data storage meets legal requirements for chain-of-custody concerns.

(F) Using a system that includes technical assistance capabilities.

(8) Require that all recorded data from body-worn cameras are property of their respective law enforcement agency and shall not be accessed or released for any unauthorized purpose, explicitly prohibit agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media Internet Web sites, and include sanctions for violations of this prohibition.

(c) (1) For purposes of this section, "evidentiary data" refers to data of an incident or encounter that could prove useful for investigative purposes, including, but not limited to, a crime, an arrest or citation, a search, a use of force incident, or a confrontational encounter with a member of the public. The retention period for evidentiary data are subject to state evidentiary laws.

(2) For purposes of this section, "nonevidentiary data" refers to data that does not necessarily have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the officer might perform while on duty.

(d) Nothing in this section shall be interpreted to limit the public's right to access recorded data under the

HOUSING HOMELESS WOMEN?



Photograph entitled "Charlene" taken by Lina Vital was graciously provided by the Carl Cherry Center for the Arts.

HOUSING HOMELESS WOMEN?

SUMMARY

“Tent Cities are America’s...waiting areas for affordable and accessible housing. The idea of someone living in a tent...says little about the decisions made by those who dwell within and so much more about our nation’s inability to adequately respond to those in need.”¹ Persistent community concern regarding the ever-increasing number and needs of local homeless women led this Monterey County Civil Grand Jury (MCCGJ) to study these women, many of whom are over age 50. Because single older homeless women are among the very vulnerable, the MCCGJ believed it was important to investigate their situations, including causes of homelessness, obstacles, and housing resources available to them. We found that loss of income (from partners or jobs) brought about evictions, resulting in women living in cars while they seek low cost housing; but this housing is so rarely available that women end up in tents, in shelters or on the street.

One of the major reasons for homelessness is lack of affordable housing for people at or below poverty levels; the current annual poverty income level for one person is \$11,880 or \$990 per month).² In Monterey County, the 2016 Fair Market Rent for an Efficiency (studio apartment) is listed at \$961.³

This report focuses first on plans for housing the homeless, housing issues and progress made in Monterey County and then discusses homeless women and what is being done to house them.

In 2011, Monterey County developed a plan to end homelessness; its first component was to create a "Housing Pipeline" committee to work on housing development. That

¹ Tent Cities in America, A Pacific Coast Report, March 2010; <http://NationalHomeless.org>

² Poverty Guidelines for the 48 Contiguous States and the District of Columbia, Federal Register Annual Update, 01/25/2016; <https://www.federalregister.gov/articles/2016/01/25>

³ <https://www.huduser.gov>

plan was mostly never implemented, and the committee never created. Therefore, the MCCGJ recommends that the County appoint a leader to implement the plan to end homelessness.

BACKGROUND

Early in this investigation, the MCCGJ discovered that Monterey County had a plan to deal with homelessness. In December 2011, the Board of Supervisors approved this 10 year Lead Me Home⁴ Game Plan to end homelessness in Monterey County. This plan required four years of work by a very broad coalition of Homeless Services Providers who represented county, state, and federal organizations as well as local charities, churches and housing groups using the approach of “Housing First”⁵ model. This model’s primary focus was on helping individuals and families access and sustain permanent rental housing as quickly as possible without time limits. Studies have shown “that Housing First yields higher housing retention rates, drives significant reductions in the use of crisis services and institutions, and helps people achieve improved health and social outcomes.”⁶ “In a study prepared by the University of New Mexico, the costs incurred were 31% less than the year prior to the Housing First adoption.”⁷ This means that it costs less to house the homeless, rather than treat them with therapy and other services before they are deemed fit for housing. The Lead Me Home’s plan’s implementation stalled due to several factors including the recession, the loss of redevelopment funds, lack of leadership, and perhaps political will.

One of its key strategies was to create a housing pipeline through a Housing Pipeline Committee that would develop ways to increase housing for the homeless “by 75 units after five years.” The MCCGJ was not able to verify that this committee was in existence nor identify anyone on it. It is our understanding that the committee is not

⁴ Lead Me Home Game Plan; http://www.mcdss.co.monterey.ca.us/reports/downloads/lead_me_home_01_13.pdf

⁵ National Alliance to End Homelessness; http://www.endofhomelessness.org/pages/housing_first

⁶ <https://www.usich.gov/solutions/housing/housing-first>

⁷ University of New Mexico Institute for Social Research; <http://news.unm.edu/unm-study-reveals-cost-benefits-in-housing-the-homeless>

currently functioning, but that there is renewed interest in forming that committee. In the meantime, the five-year timeline is in its fourth year, and the population of homeless women is growing.

A recent newspaper headline read: “Housing the homeless requires political will and a lot of cash, but is it doable?”⁸ Maybe, since the Federal Government Department of Housing and Urban Development (HUD) incentivizes adopting the Housing First approach, upon which the Lead Me Home Plan is based; meaning that HUD grants are available to those using the Housing First model.

INVESTIGATIVE METHODOLOGY

The MCCGJ investigated the status of housing for homeless women by interviewing personnel from agencies that provide housing and shelter services, as well as County Government and department officials and a homeless woman. Several site visits were made to shelters and encampments. The MCCGJ also reviewed the following documents, reports, and articles:

- Reports from Monterey Planning Department and Monterey City Council Meetings.
- Lead Me Home Game Plan, the 2015 Homeless Point-In-Time Census⁹, and the 2015 Homeless Services Resource Guide.
- Homeless documents from other states, counties, cities and agencies.
- News articles from the *Monterey Herald*, *Monterey County Weekly*, *Salinas Californian*, and others from outside of Monterey County.

DISCUSSION

One of Monterey County’s Lead Me Home Plan goals was to “Lead! Promote, request, allocate, dedicate, advocate for continued implementation of the plan.” As mentioned previously, the plan stalled, but there is hope. In November 2015, the Board of Supervisors approved two additional Coalition staff dedicated to implement the plan.

⁸ http://www.montereycountyweekly.com/news/cover/housing-the-homeless-requires-political-will-and-a-lot-of/article_94a9b3d2-a450-1e-951b-9f506e7172aa.html.

⁹ <http://www.chspmontereycounty.org/wp-content/themes/chsp/img/final-MC-2015-Census-Report.pdf>

In 2015, Health in All Policies¹⁰ documents were presented to the Board of Supervisors and several county Departments, highlighting extremely high housing costs and the shortage of affordable housing throughout the county. This has forced many people to overspend, or overcrowd, live in unsafe shelters or live without shelter. In fact, emergency and transitional housing services were available to only 30% of the 2,308 homeless adults surveyed in the 2015 Monterey County Census Report.

It should be noted that Monterey County organizations including county, city and local federally funded departments, churches, charities and other private organizations continue to respond to the needs of the homeless population. The result is that most are kept alive, fed, clothed, etc.; few are housed.

HOUSING IN MONTEREY COUNTY

Monterey County has a shortage of affordable and low cost housing. Construction is not keeping up with population growth. The cost of housing is difficult for people of average income and out of reach for people with low-income. As mentioned earlier, the current annual poverty income level for one person is \$11,880 (or \$990 per month) and the 2016 Fair Market Rent for an Efficiency (studio apartment) is listed at \$961.

Landlords raise rents to a level where low income individuals are unable to pay their rents, thus causing a larger population of homeless. Additionally, few landlords accept Section 8¹¹ vouchers because the voucher amounts are less than the rental market rate.

Organizations that build affordable housing have not been able to keep up with the need since the California Redevelopment Agency ended in 2011. However, some projects were completed. Cities and other entities, including Interim, have partnered with the Housing Authority, the Community Housing Improvement Systems and Planning Association (CHISPA), Mid-Pen and others to develop, build or rehabilitate existing

¹⁰ Health in All Policies, Housing Fact Sheet; <https://htyhd.org/wp-content/uploads/2015/08/MCHD-Housing-Fact-Sheet-ENGLISH-FINAL.pdf>

¹¹ Housing subsidy paid to the landlord through a Federal program for low income, elderly, disabled or persons

homes and rental units. Many housing projects are in progress, but most of these will be for a population who have more income than the homeless. In the meantime, many local communities discourage the development of “tent cities” for their homeless populations. When there are affordable housing shortages in these communities, encampments show up. These are periodically razed by authorities when they become health hazards. Requests for port-a-potties and washing stations have been denied. Community members have voiced concerns for their neighborhoods when the homeless are nearby. The MCCGJ has been informed that local communities do not want to be the “dumping ground” for the homeless.

Cities such as Portland and Fresno have made accommodations to tent cities and storage shed habitats, but in Monterey County, these are seen as an inadequate approach. This county has about 2300 homeless. If it takes the *Lead Me Home* Plan five years to develop 75 housing units for the homeless, wouldn't even that provide some relief in the meantime?

OLDER, SINGLE, HOMELESS WOMEN

According to the 2015 Point-in-Time Census, the number of homeless women has increased and is now equal to 50% of the homeless population in Monterey County. Studies, interviews and the census show that the most common causes of homelessness are loss of job, death of spouse or divorce, and medical/health problems. Many homeless women are still working but do not earn enough to afford rents in this area. 60% are over age 50. Homeless women are vulnerable not only to the elements but also to the people who prey on their vulnerabilities. If they live in a tent, on the street or in an encampment, they have no protection from those who rob, beat and rape them. If they have a dog for protection, companionship and for love, their dogs are not allowed in shelters or transitional housing.

These are three typical stories of the older homeless woman:

- Connie is 52 and worked as a server at a café full-time and was able to maintain a studio apartment, car and insurance payments and cover monthly utilities.

When the recession hit, her hours were cut in half and she couldn't secure additional hours anywhere else. The bills began to add up, the rent and car payments were paid late, and the car insurance lapsed. Eventually she lost the apartment, and moved her belongings that fit into her car. Later, her car was repossessed and she couldn't make it to work on time, so she lost her job. Eventually, friends tired of her frequent requests to sleep over and she began to sleep in the back of shopping centers and in parks. She still tries to secure employment but it seems the odds are against her.

- Maria is 66, a homemaker married for thirty years before her partner left her. She didn't want to burden her grown children who live in different states. They think Mom is doing okay. But she lost her house eight months ago and has been sleeping in the car every night since and visiting libraries in the daytime hours trying her best to blend in. She might qualify for Social Security if she knew about it, she comes from a generation that is simply uncomfortable asking for help. So she remains in the shadows, silent and afraid.¹²
- Jane was born on the Monterey Peninsula about 70 years ago. She now lives in a tent in a local park. She was recently diagnosed with terminal cancer. She used to live in Section 8 housing but was evicted for letting another homeless woman stay with her. She said it was against the rules. She receives Social Security income, and has enough money to rent a motel room about once a week to keep clean and warm. In the past, she had a van but had difficulty finding a place to park it overnight. She has been robbed several times, as it is difficult to secure items in a tent. She perseveres.

Resources available to homeless women include temporary shelters; however, the number of homeless women in the county is approximately 1150 and there are only about 100 temporary beds available for them. As of January 2016, the following beds,

¹² Three Samples Email, Coalition of Homeless Services Providers, February 2, 2016

sleeping bags or mats or other housing units were dedicated for single homeless women in Monterey County:

Name of Shelter Facility	Beds/Units
Dorothy's Place, Women Alive Emergency Shelter	16
Dorothy's Place, House of Peace	12
Franciscan Workers Jefferson House	12
I-Help Outreach Plus Unlimited, Marina/Monterey	14
Shelter Outreach Plus, WOMEN IN TRANSITION	12
Shelter Outreach Plus, Salinas/Seaside	16
Veteran's Transition Center	6
YWCA	<u>15</u>
Total	103

When homeless women cannot find beds, they resort to living in their cars, in encampments, in abandoned buildings or on the street. Some women will be eligible to use motel/hotel vouchers for a limited time. There are other places that have beds which are open to any homeless adult, but the MCCGJ was informed that homeless women are uncomfortable or fearful of shelters with homeless men.

For women who live in their cars, a safe overnight parking program has been created. In September 2014, a Safe Parking Pilot Program called ONE STARFISH began at several church parking lots. The program allowed women to stay in their cars overnight. The women received access to toilet facilities, night-time lighting, and security. They also had access to case management services for health, jobs, legal and social service issues. After finishing its pilot year, it is now being administered by Pass the Word Ministry.

But citizen complaints arose regarding homeless encampment people using the toilet facilities at the Monterey United Methodist Church parking lot. The city of Monterey then declined in January 2016 to approve a permit for overnight parking at the Methodist Church. However, they did approve an ordinance to allow overnight parking in a city parking lot, under the One Starfish Program. It allows six homeless women to sleep there overnight in their cars. The ordinance will expire on October 1, 2016.

Other housing resources are also available:

- The Community Foundation for Monterey County approved allocating \$90,000 to the Housing Resource Center to “provide permanent housing for five women, 80 nights of emergency temporary housing and screening of 100 women.”¹³ They also approved additional monies for Interim, Inc., Outreach Unlimited, Pass the Word Ministries and Shelter Outreach Plus to provide housing/shelter for women.
- Housing Authority units and Section 8 vouchers are occasionally available. There is a wait list for these.
- For all homeless persons who contact organizations for help, a new assessment system, which rates their vulnerabilities is in progress in Monterey County. This system could assist in placing vulnerable women in housing sooner than the previous practice of “wait-listing.” The system is called Coordinated Entry and assures compliance with HUD mandates.

Some obstacles that are preventing housing for homeless women include unwillingness of ordinary citizens to become involved, frightened citizens who fear the homeless, political will to solve the problem, and cities within Monterey County unwilling to provide temporary housing solutions while permanent housing is being built.

As the older homeless women in Monterey County await housing, so many live in tents and in unsheltered conditions. They are less limber, less healthy, and less prepared to manage safe survival during the nights and inclement days. Monterey County should

¹³ <http://www.cfmco.org.fhw>

be able to respond promptly and adequately to the housing needs of older homeless women.

**In Memory of
Dolores Jean Temple (DJ)
Born October 10, 1944
Died April 28, 2016**

FINDINGS

- F1.** Monterey County's Lead Me Home Plan has stalled due to factors including the recession, loss of redevelopment funds, lack of identified leadership and political will.
- F2.** The creation of Housing Pipeline Committee, the first and primary step of the Lead Me Home Plan, did not occur.
- F3.** Faith-based and non-profit organizations are providing funding and services to house homeless women, but it is insufficient.
- F4.** Funding is provided by Monterey County and cities to build low cost housing most of which is unaffordable for homeless women.
- F5.** There are insufficient resources to house the homeless, evidenced by the increasing number of encampments and people living in the street.
- F6.** The cities of Monterey, Salinas and Marina and Monterey County have identified property owned by them that could be used for low cost and transitional housing, but it is currently not being utilized.
- F7.** Safe overnight parking for homeless women is scarce in Monterey County.

RECOMMENDATIONS

- R1.** Monterey County Board of Supervisors shall appoint a leader to implement the Lead Me Home Plan by June 2017.
- R2.** The appointed leader of the Lead Me Home Plan shall reactivate the Housing Pipeline Committee by June 2017.
- R3.** Faith based and non-profits should focus more funds toward *housing* the homeless. This would reduce the need for other ancillary services, saving money.
- R4.** Monterey County and cities within it, shall include more very low cost housing in their action and development plans, beginning with their 2017 plans.
- R5.** Monterey County and cities within it shall cooperate with non-profits on proposals for alternative temporary shelters for the homeless.

- R6.** Monterey County and cities within it shall identify which of their owned property could be utilized for very low cost and transitional housing by June 2017.
- R7.** Monterey County and cities within it shall increase permits for safe overnight parking for homeless women living in their vehicles by June 2017.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

Monterey County Board of Supervisors:

F1 and R1; F2 and R2; F4 and R4; F5 and R5; F6 and R6, F7 and R7.

Cities of Salinas, Monterey and Marina:

F4 and R4; F5 and R5; F6 and R6; F7 and R7

Invited responses:

Non-profits and faith-based organizations, such as Fund for Homeless Women, Dorothy's Place and Salvation Army:

F3 and R3.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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WEBSITES REFERENCED

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OVERCOMING OBSTACLES TOGETHER



Courtesy of Shutterstock

OVERCOMING OBSTACLES TOGETHER

SUMMARY

In the Salinas City Elementary School District (SCESD), students impoverished in both language and financial stability are ill-prepared to begin school. In many cases English is not a requirement to function in their home, community and playground. There is no academic language base, they have few books, and their parents are often illiterate. Students may have English “street” language, but struggle in understanding English language structure. The school is expected to prepare these students to fully integrate into American society, while respecting the students’ own culture and traditions.

Students who are not English proficient by the end of 6th grade are considered long-term English Language Learners. If they are not reclassified by high school, they may not be able to take required college entrance courses.

Collaboration within the SCESD, and the time to collaborate, seems limited by the length of the teaching day and access to instructional aides. There is insufficient time allotted for parent-teacher conferences.

BACKGROUND

The Monterey County Office of Education (MCOE) responded to the 2014-15 Monterey County Civil Grand Jury report, *Education A “No Excuses” Approach to English Language Learning in Monterey County*, by stating that it was not responsible for the English language (EL) programs in the County school districts. In California, each school district is responsible for designing a successful English Language Learner (ELL) program. The program must be educationally sound in theory, and effective in practice, preventing the development of “long-term English Learners.”¹

¹ Students enrolled in school for more than six years, not progressing toward English proficiency, and struggling academically due to their limited English skills; accessed April 14, 2016, <http://edglossary.org/>

SCESD was selected because the District is large and diverse enough to be representative of English language teaching and learning in Monterey County. SCESD has a population of 9,125 students in 14 elementary schools (K-6) having an average of 54% ELLs with some schools as high as 81%. Investigative interviews revealed major negative impacts to EL learners. Socio-economic obstacles and the absence of school readiness undermines their ability to learn, and is subsequently reflected in the students' test scores.

Figure 1 is a snapshot of SCESD:²

FIGURE 1

School	% of ELL	State Ranking ^a	CAASPP ^b English Score (St Avg 44%)	CAASPP ^b Math Score (St Avg 33%)	Free/ Reduced Lunch ^c
Mission Park	13%	5	36%	27%	49%
Lincoln	25%	3	30%	15%	40%
Laurel Woods	28%	4	26%	19%	67%
University Park	39%	1	15%	9%	78%
Monterey Park	44%	2	18%	9%	75%
Henry Kamman	47%	3	25%	21%	81%
Boronda Meadows	61%	2	18%	10%	87%
El Gabilan	63%	1	13%	10%	86%
Roosevelt	67%	1	13%	7%	96%
Natividad	68%	1	14%	8%	91%
Loma Vista	70%	1	11%	7%	89%
Los Padres	75%	3	23%	17%	90%
Sherwood	81%	1	11%	11%	94%
Boronda Dual Immersion Academy – Too new to rate					

^a Scale is 1-10 based on standardized state tests; 1-3 below average, 4-7 average & 8-10 high

^b CAASPP percentage reflects students at or above grade level.

^c Percentage of children (from families with incomes at or below 130% of the poverty level) who qualify for the federal free and reduced lunch program.

² Great!Schools, Finding a Great School in California, SCESD Ranking; accessed April 14, 2016, <http://www.greatschools.org/california/salinas/salinas-city-elementary/schools/>

INVESTIGATIVE METHODOLOGY

The Grand Jury used multiple methods of investigation for this report including:

- Interviews with SCESD officials, administrators and staff
- Interview with MCOE staff
- On-site school visits
- Attended SCESD public meeting
- Websites
- Documentaries
- Documents and Articles; please refer to Bibliography for list

DISCUSSION

SCHOOL DISTRICT

SCESD is in a rebuilding mode. The new Superintendent, in her first year with the District, has over 40 years of educational experience, many of those in bilingual programs. Many principals and administrators are new to their positions, and have extensive educational experience and background. In addition, most staff is bilingual.

The Superintendent met with each principal at the beginning of the 2015-16 school year to develop and implement two goals for the academic year; one each in English and math, with goal achievement to be evaluated at year's end. These goals are based on State student achievement data. The primary goal of SCESD is for all ELL to be reclassified as Fluent English Proficient (FEP)³ by the end of 6th grade. Without reclassification, the student becomes a long-term EL. Not being reclassified to FEP status prevents them from taking the high school courses necessary to meet college entrance "a to g" requirements.⁴

Like all districts across the country, SCESD has been negatively impacted by the current teacher shortage. They have had to hire not-yet-credentialed teachers and substi-

³ Students whose primary language is other than English and who have met the district criteria for determining proficiency in English.

⁴ High school college-preparatory courses; history/social science, English, mathematics, laboratory science, language other than English, visual and performing arts.

tutes into full time classroom positions. SCESD offers Saturday classes and evening “Boot Camp” to help support and train these new teachers.

Instructional aides are hired for kindergarten, 1st grade, Special Education and after school programs. They currently are not hired for 2nd through 6th grades as in past years. Aides are particularly needed in ELL classes to provide teacher assistance with small-group work and other non-credentialed tasks. Playground supervision often falls upon teachers and administrators. Federal Title III funds⁵ are available to hire these instructional aides.

In the early years children learn to read, later on they read to learn.⁶ The City of Salinas has been chosen as a pilot city for a new electronic literacy program. Footsteps2Brilliance® – an early learning solution that helps children become proficient readers by 3rd grade. This electronic platform uses mobile devices (iPads and Smart phones) and a parent email address. It contains over 1,000 interactive books, songs and games that can be read in English or Spanish.⁷ Some of the SCESD schools have purchased iPads for their students to access this program.

ELL PROGRAMS

ELL programs should not be an isolated pocket within the elementary school; it should be part of how the entire educational program is designed. It must be integrated into each subject as a coordinated effort. When a child enrolls in school, a Home Language survey is conducted with the parents by bilingual staff to identify each child’s home language. If the child is determined to be an ELL, they are placed into the default Prop 227 SEI (Structured English Immersion) program. The following, taken from SCESD Educational Services, describes the Alternative programs available to parents wishing to opt out of the default SEI program.

⁵ Title III, Part A funds may be used for trained supportive personnel, including Teacher (Instructional) Aides.

⁶ United Way, “Reading for All, Read to Learn/Learn for Life,” accessed April 14, 2016, <http://reading4all.com/>

⁷ Footsteps2Brilliance, accessed April 14, 2016, <http://www.footsteps2brilliance.com/>

1. Structured English Immersion Program (SEI) – Provides instruction of all subjects in English for students with less than reasonable fluency in English. 80-100 percent of the day consists of English Language Development (ELD), Content-Based ELD and Specially Designed Academic Instruction in English (SDAIE). Students may be supported by instruction in their primary language the remaining 1-20% of the day to motivate, clarify, explain and extend concepts or ideas. (Approximately 70-75% of ELL students)
2. Alternate Program –
 - a) Dual Immersion (Approximately 10% of students)
 - b) Transitional Early Exit⁸ (Approximately 10% of students)
 - c) Transitional Late Exit⁹ and
 - d) School Community

The Alternate Program classroom includes primary language instruction. Instruction, textbooks and teaching materials are in the student's native language and English depending on their grade level and level of English proficiency. Instruction in 1st through 6th grade is taught in an increasing percentage of time in English, including Content-Based ELD, SDAIE and GLAD (Guided Language Acquisition Design). An approved parent/guardian exception waiver is required for EL students to participate in this program.

3. English Language Mainstream Program – Students receive the entire core curriculum overwhelmingly in English. Students are native English language speakers, Initial Fluent English Proficient (I-FEP) and Reclassified English Proficient (R-FEP).

All schools offer SEI and Early Exit with a limited number of schools providing Dual Immersion programs.

⁸ Designed to transfer a student to English-only instruction not earlier than two or later than five years after the student enrolls in school.

⁹ Designed to transfer a student to English-only instruction not earlier than six or later than seven years after the student enrolls in school.

TRACKING THE ELL

To assess the students' EL abilities they are given a California English Language Development Test (CELDT) within 30 days of enrollment. This test identifies students who are English learners, determines their level of proficiency, and assesses their progress toward acquiring English proficiency. On a one-on-one basis, a speaking, listening, reading and writing test is administered between July and October each year. The kindergarten and 1st grade focus is letter and letter combination sounds, and the 2nd through 6th is comprehension. Other evaluations by teachers are conducted annually to see if the student is meeting objectives for all instruction to assess their ELL progress. Figure 2 is the 2014-2015 SCESD overall ELL performance, by grade level (K-6), using the CELDT:

FIGURE 2
Number and Percent of Students at Each Overall Performance Level by Grade

Performance Level	K		1		2		3		4		5		6	
# of students % at Perform Level	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Advanced ^a	5	1	24	3	9	1	38	4	24	4	40	7	15	4
Early Advanced ^b	27	3	146	18	125	15	133	15	173	25	212	39	71	21
Intermediate ^c	159	17	284	34	314	36	335	39	298	43	206	37	161	46
Early Intermediate ^d	177	19	199	24	265	31	213	25	105	15	59	11	65	19
Beginning ^e	545	60	179	21	150	17	148	17	89	13	31	6	36	10
Number Tested	913	100	832	100	863	100	867	100	689	100	548	100	348	100

^a Advanced: Communicate effectively in English and can identify and summarize concrete details and abstract concepts; errors infrequent and communication not reduced.

^b Early Advanced: Begin to combine elements of English and summarize most concrete details and abstract concepts; errors less frequent and communication rarely difficult.

^c Intermediate: Begin to tailor English skills with increasing ease, usually limited to phrases and memorized statements; errors make communication difficult.

^d Early Intermediate: Able to identify and understand more concrete details, increase ease to more varied communication; frequent errors reduce communication.

^e Beginning: Demonstrate little or no English skills, may be able to respond to some communication; frequent errors make communication difficult.

Information from the CELDT is used to create a comprehensive evaluation tool, the Gainers/Stickers/Sliders Report.¹⁰ Gainers show improvement, Stickers remain the

¹⁰ The Gainers/Stickers/Sliders report is derived from the CELDT student performance comparison over a two year period.

same and Sliders lose proficiency. The evaluation tool is color coded to visually emphasize student performance and readily identifies high-performing schools and teachers. The District uses the report to track ELL student academic progress over sequential years.

SCHOOL CLIMATE

Collaboration is a key element for successful schools. It creates a culture that generates commitment, encourages teamwork, and positively impacts the school climate. Shared professional development strategies integrated into the activities of teaching enables lesson planning to accelerate student achievement.

Teachers and instructional aides need time to collaborate, share and implement goals district-wide in order to achieve mutual accountability. A shared commitment enables ordinary people to share extraordinary things for the betterment of student outcomes. The best teachers become mentors and coaches.¹¹ “It is interesting to note that the world’s top-performing school systems... set aside significant and frequent time for teacher collaboration and preparation.”¹²

The collaborative approach gets high marks from US teacher unions,¹³ however, in the SCESD it may be harder to achieve due to restrictions included within the teachers’ Master Agreement. As noted in the Master Agreement, the instructional period per day is: preschool is less than 360 minutes, K is 200 minutes, 1st-3rd is 285 minutes and 4th-6th is 305 minutes. The workday begins 30 minutes before the first regularly scheduled

¹¹ Melinda Burns, “Teacher Collaboration Gives Schools Better Results,” *Pacific Standard Magazine*, August 22, 2011, <https://psmag.com/teacher-collaboration-gives-schools-better-results-8e2ca35991dc#.gnskhb899>

¹² Ed 100, California’s Education System 100% Demystified, 3.6 *Collaboration: How Do Teachers Work Together*, accessed April 14, 2016, <http://ed100.org/teachers/collaborate/>

¹³ Melinda Burns, “Teacher Collaboration Gives Schools Better Results.” *Pacific Standard Magazine*, August 22, 2011, <https://psmag.com/teacher-collaboration-gives-schools-better-results-8e2ca35991dc#.gnskhb899>

class, and ends when the required instructional time has been worked.¹⁴ However, the instructional period does not include time for collaboration among teachers.

SCESD fosters an atmosphere of collaboration and mutual respect between the students, as well as between the student, teacher, staff and administrators. Students learn to collaborate by working with and learning from each other. Collaboration was reflected in the classrooms visited by the placement of desks and tables to encourage small group interaction. The classrooms were clean, colorful, and well organized with positive messages and student work displayed on the walls. According to the Association for Supervision and Curriculum Development,¹⁵ the following are necessary characteristics of high performing schools:

- The belief that all students can succeed at high levels
- High expectations
- Collaborative decision making
- Teachers accept their role in student success or failure
- Strategic assignment of staff
- Regular teacher-parent communication
- Caring staff and faculty
- Dedication to diversity and equity

SCESD schools reach out to parents via newsletters, at the school-site ELAC (English Learner Advisory Committee) and DELAC meetings. DELAC (a district-wide forum) and ELAC (the school-based forum), are offered as an avenue for two-way communication between SCESD, the school, and parents regarding their children's education. DELAC serves as an avenue of training and information for parents. Agenda items may include effectiveness of educational programs, parent involvement at home and school, infor-

¹⁴ Master Agreement by and between Salinas City Elementary School District Board of Education and Salinas Elementary Teachers' Council, July 1, 2014 – June 30, 2015, <http://www.salinascityesd.org/human-resources/>

¹⁵ Patricia J. Kannapel and Stephen K. Clements with Diana Taylor and Terry Hibpshman, "Inside the Black Box of High-Performing, High-Poverty Schools: A report from the Prichard Committee for Academic Excellence," *Association for Supervision and Curriculum Development*, February 2005, <http://people.uncw.edu/kozloffm/highperforminghighpoverty.pdf>

mation on student academic progress, educational topics and leadership. DELAC also offers computer training, math, nutrition, and health information. DELAC advises the Board of Education, conducts a district-wide needs assessment and establishes goals and objectives for programs. In addition to DELAC and ELAC, some SCESD schools provide federally funded eight-week educational programs for parents. Currently, a limited number of parents participate in these meetings and programs.

SCESD offers an after-school grant-funded program, Best of Education and Safety Time (BEST), also known as After School Education & Safety program (ASES). “The BEST program involves collaboration among parents, youth, representatives from schools and government agencies, and individuals from community-based organizations and the private sector. The program is offered at eleven of our school sites. Programs provide literacy, academic enrichment, and safe, constructive alternatives for students in transitional kindergarten¹⁶ through sixth grade (TK-6) during non-school hours.”¹⁷

SCESD offers two preschool programs; State Preschool, free preschool for children meeting income eligibility funded by the California Department of Education, and Smart Start Preschool, a fee based program. “SCESD Preschool Programs are designed to develop the whole child, including social and emotional development and self-regulation. Preschool curriculum is designed to establish early academic capabilities that serve as the foundation for a lifetime of learning...”¹⁸

Preschool plays an important role in preparing the child to enter school. This is especially true for children who have language deficiency. According to First 5 Monterey County; “In the first 5 years of a child's life, critical brain connections are made that shape lifelong learning. Incredibly, by age 3 a child's brain has grown to 80 percent of that of an adult. How we nurture and support our children today will impact their suc-

¹⁶ A two-year kindergarten program that uses a modified curriculum that is age and developmentally appropriate; <http://www.montereycoe.org/>

¹⁷ SCESD, BEST After School Program, accessed April 14, 2016, <http://www.salinascityesd.org/best-page/>

¹⁸ SCESD, Preschool, accessed April 14, 2016, <http://www.salinascityesd.org/preschool-page/>

cess in school and in life.”¹⁹ And, “Chronic stress from growing up in poverty can physiologically impact children’s brains, impairing their working memory and diminishing their ability to develop language, reading and problem-solving skills, reports a new Cornell study.”²⁰

The average number of children attending the preschool programs is 250 to 300 (approximately 30% of the average SCESD kindergarten population). The currently available SCESD State Preschool program offers two sessions, 8:00 – 11:00 am and noon – 3:00 pm. The limited hours of these sessions may contribute to the inability of children of low-income working parents to participate in this invaluable resource, because many are unable to leave work to take or pick up their children.

HOME ENVIRONMENT

Educational obstacles in the home include poverty, generational poverty, no home stability, lack of nutrition and sleep, parent literacy and limited exposure to books. In 2013 the percentage of children living in the SCESD below the federal poverty level (FPL) is 28.1%. The current FPL for a family of four is \$24,300 annually.

Generational poverty leads to a tremendous deficit in vocabulary, and a lesser variety of words spoken in the home affects both ELL and English students. “Children from low-income families hear, on average, 13 million words by age 4. In middle-class families, children hear about 26 million words during that same time period. In upper-class families, they hear a staggering 46 million words by age 4 – three times as many as their lower-income counterparts (Hart & Riley, 1995)... This language difference is not subtle; it’s a mind boggling, jaw-dropping cognitive chasm.... When children aren’t familiar with

¹⁹ First 5 Monterey County, Who We Are, accessed April 14, 2016, <https://www.first5monterey.org/who-we-are.htm>

²⁰ “CU study: Poverty can physically impair brain, reducing children’s ability to learn,” *Cornell Chronicle*, April 22, 2016, <http://www.news.cornell.edu/stories/2009/04/poverty-changes-brain-reduces-childrens-learning>

words, they don't want to read, often tune out, or feel like school is not for them."²¹ This background is a very powerful determiner of how well students do in school.

Parents respect the educational institution, its teachers and administrators. However, "Because of the high respect with which the teacher is held, parents will be reluctant to question the teacher, to give suggestions, or to appear to be interfering in the educational process."²²

"Families are the primary socializing agents for their children... Early parent-child interactions help children learn regulatory process and socialize them into the rhythm of their family and culture."²³

OBSTACLES TO LEARNING

Many children in the SCESD experience poverty. Their limited exposure to books, coupled with their parent's literacy barriers, results in a deficient vocabulary that places them at a major learning disadvantage. Although there are federally funded preschools, only a small number of children currently attend. When these children enroll in the SCESD, they are not prepared to enter the educational environment and, in many cases, to learn a new language.



**"Education is not received,
it is achieved."**

Albert Einstein

Courtesy of Shutterstock

²¹ Eric Jensen, "How Poverty Affects Classroom Engagement," *United Way, Reading for All*, <http://reading4all.com/entries/page/1156>

²² "Understanding Cultural Aspects of the Hispanic Culture," *In SlideShare*, accessed April 14, 2016, <http://www.slideshare.net/kmeza/hispanic-culture-11218506>

²³ Patrice L. Engle and Maureen M. Black Wiley, "The Effect of Poverty on Child Development and Educational Outcomes," *Online Library*, July 25, 2008, <http://onlinelibrary.wiley.com/doi/10.1196/annals.1425.023/full>

FINDINGS

- F1. Many children enter school with a limited vocabulary and lack of school readiness.
- F2. There are no District preschool programs that provide aftercare.
- F3. Grades 2–6 do not have aides who can provide teacher assistance in classroom tasks and small-group work.
- F4. Students who are not reclassified to Fluent English Proficient status prevents them from taking the high school courses necessary to meet college entrance “a to g” requirements.
- F5. There is low parent participation in school meetings, programs and activities.
- F6. Insufficient time is available for collaboration between District teachers and administration.
- F7. Inadequate time is allocated to parent/teacher conferences to enable parents to be involved and support their child in school.
- F8. The shortage of credentialed teachers has resulted in the District hiring not-yet-credentialed and substitute teachers to fill the vacant teaching positions.

RECOMMENDATIONS

All the following recommendations are for action by the Salinas City Elementary School District, under the direction of the Salinas City Elementary School Board.

- R1. Provide affordable on-site aftercare for preschool and pre-K classes.
- R2. Increase parent(s) participation and awareness of school meetings, programs and activities by requiring a parent orientation when a new student is registered for school. This orientation should be included in the 2016-17 student registration.
- R3. Hire aides to work in grade 2-6 classrooms who can provide teacher assistance with small-group work and other non-credentialed tasks. Hiring of these aides should be accomplished in the 2016-17 school year.
- R4. Compensate teachers for the additional time spent outside their designated instructional period to collaborate with parents, and other teachers.

- R5. Make reclassification to Fluent English Proficiency status a priority by the end of 6th grade, and stress the importance of this in teacher in-service trainings beginning in the 2016-17 school year.
- R6. Seek and encourage partnerships with community agencies, civic groups, local business and foundations (e.g. First 5 Monterey County, Salinas City Library “paleteros”) to sponsor school readiness services and student academic support.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Monterey County Civil Grand Jury requests responses as follows:

Martha L. Martínez, Superintendent, Salinas City Elementary School District
All Findings and Recommendations

Salinas City Elementary School District Board of Education
All Findings and Recommendations

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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GLOSSARY:

Annual Measureable Achievement Objective (AMAO) - All public schools in California use three measures to track English Learner progress towards proficiency. AMAO 1 is the percentage of English Learners moving up one CELDT performance level, becoming and maintaining proficiency. AMAO 2 is the percentage of English Learners who have attained English proficiency level. AMAO 3 is the percentage of English Learners meeting No Child Left Behind requirements for English language arts and math.

Academic Performance Index (API) - The centerpiece of the California Public Schools Accountability Act of 1999. A measurement of academic performance and improvement of individual schools in California. API scores range from a low of 200 to a high of 1000. The statewide performance target for all schools is 800. API has been discontinued as of March, 2014.

California Assessment of Student Performance and Progress (CAASPP) -

Established on January 1, 2014, the CAASPP System replaced the prior Standardized Testing and Reporting (STAR), which became inoperative on July 1, 2013. CAASPP will focus on achievement using the newly adopted Common Core Standards.

California English Language Development Test - (CELDT) - A test administered to any student from Kindergarten to 12th Grade who has a home language other than English. The CELDT identifies students who are English learners, determines their level of proficiency, and assesses their progress toward acquiring English proficiency.

District English Learner Advisory Committee (DELAC) - Each California public school with more than 51 English Learners must have a DELAC. It advises the district's local government board on programs, conducts assessments, and establishes goals and objectives for services to English learners.

English Learner Advisory Committee (ELAC) - Committee of parents, school staff, and community members who advocate for English Learners at a school level. They are responsible for advising the school on programs and services for English Learners

English Language Development (ELD) - Formerly known as English as a Second Language (ESL), a program model to teach English to non-English speakers with a focus entirely on language development. ELD refers to the curriculum and course materials used to instruct students learning English.

English Language Learner (ELL) - A student for whom there is a report of a primary language other than English on the state-approved Home Language Survey and who, on the basis of the state-approved oral language (K-12) assessment procedures and literacy (3-12), has been determined to lack the clearly-defined English language skills of listening comprehension, speaking, reading and writing necessary to succeed in the school's regular instructional programs.

Fluent English Proficient (FEP) - Students whose primary language is other than English and who have met the district criteria for determining proficiency in English.

Federal Poverty Level (FPL) - FPL guidelines are used to determine eligibility for certain Federal Programs

Guided Language Acquisition Design - A K-12 instructional model consisting of 35 well-articulated strategies. It is particularly designed for teachers who have a significant number of ELLs in their mainstream classrooms.

Initial Fluent English Proficient (IFEP) - Newly enrolled students who "passed" the CELDT are designated as IFEP. They will be placed in regular instruction rather than an English Learner Program

Long-term English Learners - Students, who have been enrolled in school for more than six years, are not progressing toward English proficiency, and are struggling academically due to their limited English skills.

Monterey County Office of Education (MCOE) - Provides vital resources to support Monterey County's 24 school districts, two colleges and one university. It serves as a connection between schools, State and Federal governments. It offers its staff as a resource to inform and train district administrators, guide certification of teachers and helps schools stay current with changing laws that affect education.

Policy Analysis for California Education (PACE) - An independent non-partisan research center that seeks to define and sustain a long-term strategy for comprehensive policy reform, and continuous improvement in performance at all levels of the California Educational System. It works with local school districts and professional organizations aimed at supporting policy innovation, data use and rigorous evaluations.

Reclassified Fluent English Proficient (RFEP) - The designation for students who were initially classified as English Learners but passed both CELDT and local district criteria as fluent in English. They no longer participate in the English Language Learner program and join their peers in the regular classes.

Salinas City Elementary School District (SCESD) - One of the school districts in Monterey County that was chosen for this report.

Specially Designed Academic Instruction in English (SDAIE) - A methodology (set of specific strategies) designed to make instruction comprehensible and grade-level academic accessible for English Learners. It is a teaching approach intended for teaching academic content (such as social studies, science, and math) using English language to students who are still English learners.

Structured English Immersion (SEI) - A basic core program that provides instruction of all subjects in English for students with less than fluency in English.

Title III - Officially known as the English Language, Language enhancement and Academic Achievement Act. The purpose is to ensure that Limited English Proficient (LEP) students, called English Learners under California law, including immigrants and youths, attain English proficiency. It provides grants to the State based on the number of LEP and immigrant students enrolled. The school districts must meet reporting requirements to continue receiving the grants.

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**OPPORTUNITIES FOR A NEW LIFE:
INMATE EDUCATIONAL, VOCATIONAL AND BEHAVIORAL
TRAINING AT SOLEDAD'S CORRECTIONAL TRAINING FACILITY**



Photo courtesy of A Bridge of Hope Ministries, <http://abridgeofhope.org/>

OPPORTUNITIES FOR A NEW LIFE: INMATE EDUCATIONAL, VOCATIONAL AND BEHAVIORAL TRAINING AT SOLEDAD'S CORRECTIONAL TRAINING FACILITY

SUMMARY

Each year the Civil Grand Jury tours each of the jail and prison facilities within Monterey County. This year, while touring the Correctional Training Facility (CTF) in Soledad, the jury noticed that there appeared to be a number of inmate classroom and shop activities in progress. Wondering about the nature and extent of all academic, vocational and rehabilitative programs that were made available to CTF inmates, the Jury decided to investigate. The results of that investigation were surprisingly impressive.

BACKGROUND

Every year, thousands of inmates leave California prisons and jails and return to their families and communities. While some are able to reintegrate into their communities, find jobs, and become useful members of society, others commit new crimes and end up being reincarcerated. Although a number of factors account for why some ex-prisoners succeed and some don't, experts believe that a lack of education and skills is one key reason. For that reason, correctional education programs—whether academically- or vocationally-focused—are a particularly important service when made available by correctional facilities.

In August 2013, the RAND Corporation released its 85-page report entitled *Evaluating the Effectiveness of Correctional Education, A Meta-Analysis of Programs That Provide Education to Incarcerated Adults*.¹ The study was funded

¹ Davis, Lois M., Robert Bozick, Jennifer L. Steele, Jessica Saunders and Jeremy N. V. Miles. Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That

by the Bureau of Justice Assistance, U.S. Department of Justice, with the assistance of the Office of Vocational and Adult Education. After conducting a comprehensive literature search, the authors undertook a meta-analysis² to examine the association between correctional education and reductions in recidivism, improvements in employment after release from prison, and learning in math and in reading. They summarized their key findings as follows:

- “Our meta-analytic findings provide additional support to the premise that receiving correctional education while incarcerated reduces an individual’s risk of recidivating after release. After examining the higher-quality studies, we found that, on average, inmates who participated in correctional education programs had 43 percent lower odds of recidivating than inmates who did not.... This translates as a reduction in the risk of recidivating of 13 percentage points for those who participate in correctional education programs versus those who do not.”
- “We found that inmates who participated in high school/GED programs had 30 percent lower odds of recidivating than those who had not.”
- “When examining the relationship between correctional education and post-release employment, one might expect vocational training programs to be more adept than academic education programs at imparting labor market skills, awarding industry-recognized credentials, or connecting individuals with prospective employers. And, indeed, when we looked at the relationship between vocational training—versus academic correctional education programs—and post release employment, we found that individuals who participated in vocational training programs had odds of obtaining post release employment that

Provide Education to Incarcerated Adults. Santa Monica, CA: RAND Corporation, 2013.
http://www.rand.org/pubs/research_reports/RR266.html.

² A meta-analysis uses a statistical approach to combine the results from multiple studies in an effort to increase power (over individual studies), improve estimates of the size of the effect, and/or to resolve uncertainty when reports disagree.

were 28 percent higher than individuals who had not participated in vocational training.”

- “In comparison, individuals who participated in academic programs (combining ABE, high school/GED, and postsecondary education programs) had only 8 percent higher odds of obtaining post release employment than individuals who had not participated in academic programs.”
- “State policymakers, corrections officials, and correctional education administrators are asking a key question: How cost-effective is correctional education? In other words, although our findings clearly show that providing correctional education programs is more effective than not providing them, such programs have costs. Thus, to place our meta-analytic findings into context, we undertook a cost analysis using estimates from the literature of the direct costs of correctional education programs and of incarceration itself, and using a three-year reincarceration rate. Our estimates show that the direct costs of providing education to a hypothetical pool of 100 inmates would range from \$140,000 to \$174,400 with three-year reincarceration costs being between \$0.87 million to \$0.97 million less for those who receive correctional education than for those who do not.”

This grand jury report reviews the nature and scope of the Soledad Correctional Training Facility’s (CTF’s) academic, vocational and behavioral treatment programs. The report then tries to determine the degree to which these programs meet CTF’s primary rehabilitative and re-entry mission objectives.

METHODOLOGY

Jury members toured the academic and vocational training facilities at CTF, met with training instructors, met with inmate personnel at the Veterans Services office, met with Reentry Hub Program leaders, reviewed the RAND report, and

received and reviewed correspondence and documentary materials from CTF's warden, training instructors and education department personnel.

DISCUSSION

The Correctional Training Facility (CTF) in Soledad, California, is a Level 2 prison. Its primary mission is to provide custody, care, treatment, and rehabilitative programs for minimum- and medium-security inmates. CTF is designated as a "Re-entry Hub" whose stated focus is to provide life skills for inmates through academic and vocational education classes, behavioral therapy, and paid work assignment experiences in Prison Industries Authority (PIA) projects. The ultimate goal of these programs is successful inmate re-integration into California communities at the time of their release.

All CTF inmates are required to take a TABE® reading test as part of the facilities reception process. TABE³ is an academic assessment product used in adult basic education. Educators use TABE testing to help assess the skills and knowledge of adult learners. Based on the test results, the inmate's educational level and CTF program requirement, the inmate is given an education "assignment." There may be a significant wait between testing and finding the appropriate assignment level, especially when the inmate lacks sufficient English skills.

Inmates also take CASAS tests⁴ to assess literacy development and employability skills awareness. The results of these tests and the TABE test are reviewed with the inmate to assess strengths, areas for improvement and the potential need for ESL support.

³ Test of Adult Basic Education (TABE).

⁴ The Comprehensive Adult Student Assessment System (CASAS) is employed in California to provide assessments, data collection, software and materials, as well as technical assistance to meet the accountability requirements for federally supported California basic and literacy education programs for adults who lack basic skills, a high school diploma, or proficiency in English.

California law⁵ requires that prisons provide literacy programs for inmates who score below a ninth grade reading level as assessed by the TABE testing. For any inmate enrolled in an academic or vocational program, the Statewide Literacy Plan requires that they receive daily literacy instruction until their reading level reaches the TABE reading level 9.0. At CTF, improved literacy skills are gained through its Adult Basic Education (ABE) program.

CTF programs and services fall into one of four general categories: Academic, Vocational, Reentry Hub, and Veteran's Services. While the latter service is not, primarily directed toward obtaining employment skills, it nevertheless plays an important educational role as will be explained later in this discussion.

A. ACADEMIC PROGRAMS

This category includes three programs: Mandatory Adult Basic Education (3 ABE levels), Voluntary Education and College. Students can move between programs as their skills allow.

1. Mandatory Adult Basic Education

Inmates who receive a TABE score of 0.0 to 3.9 are enrolled in ABE I. These students lack basic skills in math, English, and/or reading or they may be English Language Learners. These students require special support and tutoring to develop basic academic, language and life skills.

Inmates who receive a TABE score of 4.0 to 6.9 are enrolled in ABE II. They have acquired sufficient basic English and math skills to enhance their academic development, and they may be able to work more independently than ABE I students.

⁵ The Prison Literacy Act (Penal Code sections 2053 and 2053.1) and the California Statewide Literacy Plan (SB949).

Inmates who receive a TABE score of 7.0 to 8.9 are enrolled in ABE III. These students are encouraged to further develop their math and language skills in order to move up to the general educational development (GED) coursework.

After students attain a 9.0 TABE reading score they are eligible for the GED testing process, which includes targeted tests to determine areas needing improvement. A course of study with GED teachers is then developed. After a student demonstrates competency in the five GED subject areas, he/she takes a pre-GED examination to pinpoint any remaining areas of weakness. When a student completes the pre-GED test successfully, he/she can take the on-line five-subject GED examination.

2. Voluntary Education Program (VEP)

This program offers inmates access to educational programming when a formal educational assignment is not currently available. It also serves as a supplement to traditional educational programming, GED preparation, and support for college students.

3. College

College education is offered at CTF through Coastline Community College, Lassen Community College, Palo Verde Community College and Feather River College. Two hundred ninety-four (294) students were enrolled in the fall of 2015. In addition, inmates can also independently correspond with those colleges to pursue college degrees in a broad choice of majors.

B. REENTRY HUB: BEHAVIORAL THERAPY

The goal of Reentry Hub therapy is to provide inmates with the skills and tools they need to successfully reenter society, find employment and eliminate or reduce their risk for recidivism following their release.

Inmates approaching their release date are separately housed as a group in a specially designated area of the CTF facility. There, over the course of a year, they cycle through the following Reentry Hub programs: Substance Abuse Treatment, Anger Management, Criminal Thinking Behavior, Family Relations, Transitions/Employability, and the California Identification Program. Placement in each program is based on the inmate's remaining time to serve and a Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) needs assessment.

1. Substance Abuse

This program uses the substance abuse intervention program developed by the University of Cincinnati. The curriculum is designed for individuals who have substance abuse issues of the type that often lead to criminal behavior. The program is 150 days in length and meets 5 days each week.

2. Anger Management

This program curriculum addresses aggression, impulse control, hostility, anger and tendencies toward violence. The program is 90 days in length and meets 2 days per week.

3. Criminal Thinking

This program curriculum addresses behaviors and associations regarding criminal thinking, including moral development, narcissism, low ego, resistance to change, defensive attitudes and reasoning, and other behavioral traits that lead to criminal activity. The program is 90 days in length and meets 2 days per week.

4. Family Relations

This program curriculum addresses family and marital relationships. Also included are parenting, domestic violence, and family reunification for inmates

who have had limited contact with family members. The program is 6 months in length and meets 1 day per week.

5. Transitions

This program addresses transitions planning, job searching, job applications, winning resumes, job interviewing skills, one-stop career center orientation, and financial literacy. The program is 5 weeks in length and meets 5 days per week.

6. California Identification Program

All inmates approaching their release date are screened 6 months prior to parole and, if eligible, receive a State of California Identification Card (CAL-ID) when released in order to satisfy federal requirements for obtaining employment. The CAL-ID Card Program provides a valid California identification card to eligible inmates in accordance with California Penal Code Section 3007.05. Possession of a CAL-ID card is a critical component for employment and other services. Employment increases an ex-offender's opportunities to obtain housing and health care, comply with court-ordered debts, such as restitution and child-support, and support him or her and family.

In order to participate in THE CAL-ID program, offenders must:

- Be within 120-210 days of release;
- Have no active felony hold, warrant, or detainer that may result in additional incarceration following release;
- Not have an active Immigration and Customs Enforcement hold, which would result in deportation;
- Provide a valid Social Security number;
- Have been issued a California identification card or driver's license from the Department of Motor Vehicles within the previous 10 years; and
- Provide a physical address, including a zip code.

C. VETERANS SERVICE CENTER

While technically not a program designed by CTF to educate or provide vocational re-entry skills to inmates, the broad scope of services offered at this center is available to both veterans and non-veterans alike, according to their individual needs. The CTF Veterans Service Center was the first of its kind established in any prison in the United States. The Center is operated on a daily basis by long-term dedicated CTF inmates.

The Veterans Service Center was first established in 2005, following federal enactment of Public Law 107-95 (2001). The stated goal of that act was to end chronic homelessness among veterans. Then, in 2012, California enacted AB 2490⁶, which directed the California Department of Corrections and Rehabilitation to establish programs to assist incarcerated U.S. military veterans and their families in obtaining access to veterans' benefits and services available through the United States Department of Veterans Affairs, the State, and California Counties. Since then, the scope of services offered through the center has expanded to provide access to comprehensive benefit counseling, V.A. medical care, educational benefits (including those for eligible dependent children), V.A. claims assistance, public assistance, transitional housing, V.A. disability claims, dependent indemnity compensation and assistance, compensation apportionment for eligible spouse, dependent children and dependent parents, requests for military records, State veterans homes, burial benefits, pension benefits and parole planning.

At the end of November 2015, the Veterans Service Office reported that it had assisted in the recovery of over \$15,069,340 in earned disability compensation. In addition, \$14,289,278 was made available to the families of incarcerated veterans through the VA program of apportionment of benefits. In addition to CTF, the Veterans Service Office now serves 33 California Prisons, 41 prisons in

⁶ An act to add Chapter 4 (commencing with Section 1840) to Division 8 of the Military and Veterans Code, and to add Article 6 (commencing with Section 2695) to Chapter 4 of Title 1 of Part 3 to the Penal Code, relating to veterans.

23 other states, 4 federal prisons, and the U.S. Army Disciplinary Barracks, located at Fort Leavenworth, Kansas.

D. VOCATIONAL TRAINING COURSES

Vocational training opportunities at CTF are quite varied and offer surprising subject-matter depth. Most vocational courses require students to first complete an introductory “CORE” level of training appropriate to the selected vocation before moving on to more in-depth subject matter.

The selection of vocational courses includes Auto Body, Auto Mechanics, Carpentry, Computer Literacy, Office Services, Construction Technology, Electrical Works, Electronics, HVAC, Masonry, Plumbing, Small Engines, and Welding. Most of these programs enable students to obtain national certifications in their chosen field. More detailed information regarding each course of vocational training follows.

1. Auto Body And Paint

The Auto Body & Paint vocational training consists of two module levels for course completion and two additional advanced levels that are electives. Inmates (students) need a minimum of 1100 hours for basic program completion. The student may then continue on to complete advanced elective module levels 3 & 4, which require an additional 900 hours of training. Industry certification as a Master Collision Repair Technician is available through the National Institute for Automotive Service Excellence (ASE) for students who successfully test in all four levels.

This course teaches students those physical tasks and skills necessary for performing auto body and paint repair work in a commercial body shop setting. Students learn the use of hand and power tools associated with cutting, welding, and grinding sheet metal, and to cut, remove and replace damaged sections of sheet metal. They become familiar with those techniques necessary to measure

and straighten auto body frames with the use of hydraulic equipment. Finally, students learn how to finish (sand and fill), prime and paint the completed body repairs. Apart from mechanical skills, students develop essential active listening skills to be applied while working with their supervisor(s) and customers. Other critical skills include complex problem solving, speaking, and working with others. This course prepares a student to become an Auto Body and Related Repairer⁷, capable of repairing and refinishing automotive vehicle bodies and straightening vehicle frames. A worker in this position is expected to be able to do this job after 12 months of on-the-job training. The mean hourly wage for the occupation of body & paint technician in California is \$22.00 per hour, with average job openings of 410 per year from 2012 to 2022. Detailed course content is set forth in **FIGURE 1**.

⁷ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 49-3021 in California.

FIGURE 1 - AUTO BODY COURSE CONTENT

LEVEL 1

Shop & Site Safety
 Tools & Equipment
 Job Preparation
 Automotive Detailing
 Estimating
 New Technology Students will Demonstrate Knowledge and Understanding of Units 2-6
 Painting & Refinishing- Safety Precautions
 Painting & Refinishing- Surface Preparations
 Painting & Refinishing- Spray Gun & Related Equipment Operation
 Painting & Refinishing- Paint Mixing, Paint Matching & Applying
 Painting & Refinishing- Paint Defects, Causes & Cures
 New Technology Students will Demonstrate Knowledge and Understanding of Units 8-12

LEVEL 2

Non Structural Analysis & Damage Repair (Body Component) Preparation
 Non Structural Analysis & Damage Repair (Body Component) Outer Body Panel Repair
 Non Structural Analysis & Damage Repair (Body Component) Metal Body & Body Filling
 Non Structural Analysis & Damage Repair (Body Component) Moveable Glass and Hardware
 Non Structural Analysis & Damage Repair (Body Component) Metal Welding & Cutting
 Non Structural Analysis & Damage Repair (Body Component) Plastics & Adhesives
 New Technology Students will Demonstrate Knowledge and Understanding of Units 14-19

LEVEL 3

Structural Analysis & Damage Repair- Frame Inspection & Repair
 Structural Analysis & Damage Repair- Unibody Inspection, Measurement, & Repair
 Structural Analysis & Damage Repair- Fixed Glass
 Structural Analysis & Damage Repair- Metal Welding and Cutting
 New Technology Students will Demonstrate Knowledge and Understanding of Units 21-24

LEVEL 4

Mechanical & Electrical Components- Suspension and Steering
 Mechanical & Electrical Components- Electrical
 Mechanical & Electrical Components- Brakes
 Mechanical & Electrical Components - Heating & Air Conditioning
 Mechanical & Electrical Components- Cooling Systems
 Mechanical & Electrical Components- Drive Train
 Mechanical & Electrical Components- Fuel, Intake and Exhaust Systems
 Mechanical & Electrical Components- Restraint Systems (Active Restraint Systems)
 Mechanical & Electrical Components- Restraint Systems (Passive Restraint Systems)
 Mechanical & Electrical Components- Restraint Systems (Supplemental Restraint Systems SRS)
 New Technology Students will Demonstrate Knowledge and Understanding of Units 26-35

2. Auto Mechanics

The Auto Mechanics vocation consists of a CORE level and three (3) advanced levels and takes at least one year for the student to complete. The inmate (student) must be dedicated and possess above average mechanical aptitude. The student will learn all phases of automotive repair and maintenance. Upon completion of the course the

student will be eligible to apply for national certification by the National Association for Automotive Service Excellence (ASE). The textbooks are from the NCCER Content Learning Series called Auto Mechanics, volume levels one, two and three.

The National Institute for Automotive Service Excellence (ASE) is a voluntary certification program established to provide certification in eight areas of specialization, at the journeyman level of certification, and at the Master Automobile Technician level. It was founded to address the severe shortage of trained automotive technicians and to develop a standardized training process and curriculum. Today, ASE is recognized by hundreds of leading manufacturers, dealers, service stations, independent shops, and other national associations.

Students will study in depth analysis and troubleshooting techniques. They will use assorted hand and power tools, develop use of computer-aided diagnostic equipment, and learn spatial problem-solving skills. The course prepares students to become Automotive Service Technicians and Mechanics,⁸ able to diagnose, adjust, repair and overhaul automotive vehicles. The mean hourly wage for the occupation of Automotive Service Technician in California is \$27.34 per hour, with projected average annual job openings of 2,590. Detailed course content is set forth in **FIGURE 2**.

⁸ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 49-3023 in California.

FIGURE 2 – AUTO MECHANICS COURSE CONTENT

LEVEL 1 -Introduction to the Automotive Industry

Safety
 Shop Orientation
 Basic Technician Skills
 Wheels, Tires, and Wheel Bearings
 Suspension System Principles
 Suspension System Service
 Steering System Principles
 Steering Service
 Brake System Principles
 Brake System Service
 Drum Brake System Principles
 Drum Brake System Inspection and Service
 Disc Brake System Principles
 Disc Brake System Inspection and Service
 Antilock Brakes, Electronic Stability Control, and Power Assist
 Electrical/Electronic System Principles
 Basic Electrical/Electronic System Service
 Starting and Charging System Principles
 Starting and Charging System Service
 Lighting and Electrical Accessories
 Engine Performance Principles
 Engine Mechanical Testing and Service
 Engine Performance Service
 Automatic and Manual Transmissions
 Heating and Air Conditioning
 Vehicle Maintenance

LEVEL 2 - Introduction to Brakes

Shop Safety and Environmental Protection
 Brake Tools, Shop Equipment & Service Information
 Hydraulic System Fundamentals
 Master Cylinders, Calipers, and Wheel Cylinders
 Master Cylinder, Caliper, and Wheel Cylinder Service
 Power Assist Units
 Power Assist Service
 Hydraulic Valves, Switches, Lines, and Hoses
 Hydraulic Valve, Switch, Line, Hose Service
 Friction Brake Theory
 Disk Brake System Components and Operation
 Disk Brake Service
 Drum Brake System Components and Operation
 Drum Brake Service
 Wheel Bearings and Oil Seals
 Wheel Bearing and Oil Seal Service
 Parking Brakes
 Parking Brake Service
 Brake System Electrical and Electronic Components
 Anti-Lock Brake and Traction Control System Components and Operation

Anti-Lock Brake and Traction Control System Service
 Troubleshooting Brake Systems and Steering.

LEVEL 3 - Basic Suspension and Steering Systems Operation

Shop Safety and Environmental Protection
 Special Service Tools and Equipment
 Common Suspension System Components
 Front Suspension Systems
 Front Suspension System Service
 Rear Suspension Systems
 Rear Suspension System Service
 Steering Systems
 Steering Linkage and Manual Steering Gear Service
 Power Steering and Four-Wheel Steering Service
 Driveline and Wheel Components
 Driveline and Wheel Service
 Electronic Suspension and Steering Systems
 Electronic Suspension and Steering Service
 Wheel Alignment Principles
 Wheel Alignment Procedures
 Suspension and Steering Troubleshooting

LEVEL 4 - Introduction to Automotive Heating, Air Conditioning, and Ventilation

Shop Safety and Environmental Protection
 HVAC Tools, Equipment, and Service Information
 AC Electrical and Electronic Fundamentals
 Principles of Refrigeration
 Refrigerants, Refrigerant Oils, and Related Chemicals
 Hoses, Lines, Fittings, and Seals
 Compressors, Clutches, and Drives
 Evaporators, Condensers, Accumulators and Receiver-Driers
 Control Valves and Switches
 Engine Cooling Systems and Vehicle Heaters
 Air Delivery Systems
 Manual HVAC Controls
 Automatic Temperature Control Systems
 Refrigeration System Diagnosis and Leak Detection
 Refrigerant Recovery, Recycling and Handling
 Hose, Line, Fitting and O-Ring Service
 Compressor and Clutch Service
 Valve, Evaporator, Condenser, and Related Parts Service
 Heater and Engine Cooling System Service
 Air Delivery and Manual HVAC Control Service
 Automatic Temperature Control System Service
 Air Conditioning System Installation and Retrofitting

3. Carpentry

Carpentry is a one year program during which the student learns basic carpentry skills such as framing, construction laboring, drywall and suspended ceiling installing, tapering, site helping, and some cabinet making. Upon completion of the course, the student will be eligible to apply for national certification in carpentry by the National Center for Construction and Education Research (NCCER). The Carpentry vocation consists of a CORE level and three (3) advanced levels for the student to complete. The textbooks are from the NCCER Contren Learning Series called Carpentry, volumes level one, two, & three. NCCER is a not-for-profit 501(c) (3) construction education foundation created in 1996. Students are currently being assigned. The class will be filled with twenty-seven (27) students, taught by an instructor and three teacher's aides. Details of course content are set forth in **FIGURE 3**.

The successful completion of this course prepares students for employment as Carpenters⁹ and Construction Laborers¹⁰. Employers typically expect Carpenters to be able to do the job after a minimum of 12 months of on-the-job training. The mean rate of pay for this occupation is \$25.97 per hour in California, where it was projected to have 3,970 openings per year between 2012 and 2022.

Employers usually expect Laborers to be able to do the job after Moderate-term on-the-job training (1-12 months). The mean rate of pay for this occupation is \$20.35 per hour in California, where it was projected to have 5,510 openings per year between 2012 and 2022.

⁹ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2031 in California.

¹⁰ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2061 in California.

FIGURE 3 – CARPENTRY COURSE CONTENT

CORE

Basic Safety
Introduction to Construction Math
Introduction to Hand Tools
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employability Skills
Introduction to Materials Handling

LEVEL ONE

Orientation to the Trade
Building Materials, Fasteners, &
Adhesive
Hand & Power Tools
Reading Plans and Elevations
Floor Framing
Wall and Ceiling Framing
Roof Framing
Introduction to Concrete &
Reinforcing Material
Windows and Exterior Doors
Basic Stair Layout

LEVEL 2

Commercial Drawings
Roofing Applications
Thermal and Moisture Protection
Exterior Finishing
Cold-Formed Steel Framing
Drywall Installation
Drywall Finishing
Doors and Door Hardware
Suspended Ceiling s
Window, Door, Floor, and Ceiling
Trim
Cabinet Installation
Cabinet Fabrication

LEVEL 3

Rigging Equipment
Rigging Practices
Properties of Concrete
Reinforcing of Concrete
Handling and Placing Concrete
Trenching and Excavating
Foundations and Slab-on-Grade
Vertical Formwork
Horizontal Formwork
Tilt-up Wall Panels

4. Computer Literacy

In this course the instructor lectures and trains the students to meet the basic requirements for employability in today's high tech world, where digital literacy is a requirement. The program is structured to graduate students having at least 255 hours of training over the course of six (6) months. It involves a total of fifty-four (54) students split into two daily classes of 3.25 hours/day.

Successful course graduates can earn an Internet and Computing Core Certification (IC3®) by Certiport. Established in 1997, Certiport provides complete career-oriented certification solutions to academic institutions and IT Professionals. These services encompass test development, psychometrics, program management, sales and marketing for the official Microsoft® Office certification program, the Microsoft® Technology Associate certification program, the Adobe® Certified Associate certification program, the Adobe® Certified Expert program, the HP Accredited Technical Associate, the CompTIA Strata™ IT Fundamentals, the Autodesk® Certified User certification program, the Intuit® QuickBooks Certified User certification program and the IC3 Digital Literacy certification.

This IC3 Internet and Computing Core Certification Guide program is rigorously applied in the Computer Literacy classrooms and its protocols are followed exactly in daily instruction. The curriculum consists of systematic instruction, using visual (Smart Board), auditory (Learn Key Training), readings in the IC3 curriculum book and student demonstration exercises that verify student aptitude to successfully execute each objective of the curriculum. The Certiport Certification that students earn is an internationally recognized qualifying standard of computer literacy useful to potential employers, since the course covers a wide range of critical “real world applications” for use in today's business world.

Successfully completing this course enables students to be employed as General Office Clerks¹¹. However, they are able to perform duties more varied and diverse than those needed for this occupational classification. Clerical duties may be assigned in accordance with the office procedures of individual establishments and may include, among other things, a combination of answering telephones, bookkeeping, typing or word processing, office machine operation, and filing. The mean hourly rate for those classified as General Office Clerks is \$16.24 per hour in California, where it was projected to have an average of 9,950 openings per year. Details of the Computer Literacy course content are set forth in **FIGURE 4**.

¹¹ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 43-9061 in California.

FIGURE 4 – COMPUTER LITERACY COURSE CONTENT
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<u>Module</u> <u>V01.02.</u>	<u>Educational Component</u> <u>Instructional</u>	<u>Instructional Method</u>
	Orientation	Orientation Packet
01.	Shop and Site Safety	Introductory Power Point Presentation and Safety Orientation
02.		
03.	Employer Expectations	Text and Quiz, Writing a Resume
04.	Finding and Applying for a Job	Text and Quiz
05.	CPU Hardware, Peripherals and Troubleshooting	Learn Key Systems Audio/Visual Program
06.	CPU Software	Learn Key Systems Audio/Visual Program
07.	CPU Operating Systems	Learn Key Systems Audio/Visual Program
08.	Keyboarding	Mavis Beacon Software Training
09.	Applications - Program Functions	Learn Key Systems Audio/Visual Program
10.	Applications - Word Processing	Learn Key Systems Audio/Visual Program
11.	Applications - Spreadsheet Features	Learn Key Systems Audio/Visual Program
12.	Applications - Presentation Software	Learn Key Systems Audio/Visual Program
13.	Concepts of Networks, Intranet and Internet	Learn Key Systems Audio/Visual Program
14.	Communication and Collaboration	Learn Key Systems Audio/Visual Program
15.	Internet and the Worldwide Web	Learn Key Systems Audio/Visual Program
16.	Computer and Society	Learn Key Systems Audio/Visual Program
17.	Employer Expectations (Review)	Text and Quiz
18.	New Technology	Review of Exercises in IC' Section 3

5. Office Services & Related Technologies

This vocational course, related to the Computer Literacy Course, is currently closed to intake until a new instructor is hired. When the class begins again, the instructor lectures and trains the students to be able to demonstrate focused knowledge as a Microsoft Office Specialist at the pre-apprentice to apprentice level. After successful completion of the course, students have the ability to be employed as word processors, typists, and office clerks. The students are educated in IC3 Internet & Computing Core, Microsoft Word, Excel, Power Point, and Windows OSC. The course consists of the Computer Literacy course materials plus two additional levels of training. Data regarding mean hourly rates and projected annual job openings for this specialty occupation were not available. Further details of the course content are set forth in **FIGURE 5**. All instruction includes Microsoft Office Specialist approved courseware.

FIGURE 5 - OFFICE SERVICES & RELATED TECHNOLOGIES COURSE CONTENT

Level 1 - IC3 Internet & Computing Core Module
Computing Fundamentals
Key Applications
Living Online

Level 2 - Microsoft Word & Windows Operating System
Editing & Formatting Documents
Enhancing & Customizing Documents
Referencing & Sharing Information

Level 3A – Microsoft Excel & Windows Operating System
Preparing & Formatting Worksheets
Enhancing the Display of Workbooks
Advanced Formatting, Formulas, & Data Management
Managing & Integrating Data & the Excel Environment

Level 3B - Microsoft PowerPoint & Windows Operating System
Creating & Formatting PowerPoint Presentations
Customizing & Enhancing PowerPoint Presentations

6. Construction Technology

This one year course covers multiple construction-related techniques, such as plumbing, block, brick, and concrete, roofing, framing, site layout, and electrical. NCCER certifications are available for successfully completing each course of study, level and practical “hands on” applications practice. Currently there are twenty-seven (27) students assigned to the course with three (3) teaching aides assisting the Instructor.

The Construction Technology vocation consists of a CORE introduction and two (2) levels for the student to complete. The textbooks are from the NCCER Contren Learning Series called Construction Technology, volumes level one and two. The successful completion of this course prepares students for employment as Carpenters¹², Construction Laborers¹³, Drywall and Ceiling Tile Installers¹⁴, and Cement Masons and Concrete Finishers.¹⁵ Details of course content are set forth in **FIGURE 6**.

Employers typically expect Carpenters to be able to do the job after a minimum of 12 months of on-the-job training. The mean rate of pay for this occupation is \$25.97 per hour in California, where it was projected to have 3,970 openings per year between 2012 and 2022. Employers usually expect Laborers to be able to do the job after Moderate-term on-the-job training (1-12 months). The mean rate of pay for this occupation is \$20.35 per hour in California, where it was projected to have 5,510 openings per year between 2012 and 2022.

Employers usually expect Drywall and Ceiling Tile Installers to be able to do the job after Moderate-term on-the-job training (1-12 months). The mean rate of pay for this

¹² United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2031 in California.

¹³ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2061 in California.

¹⁴ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2081 in California.

¹⁵ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2051 in California.

occupation is \$27.31 per hour in California, where it was projected to have 950 openings per year between 2012 and 2022.

Employers typically expect Cement Mason and Concrete Finishers to be able to do the job after a minimum of 12 months of on-the-job training. The mean rate of pay for this occupation is \$23.95 per hour in California, where it was projected to have 750 openings per year between 2012 and 2022.

FIGURE 6 – CONSTRUCTION TECHNOLOGY COURSE

CORE

Basic Safety
Introduction to Construction Math
Introduction to Hand Tools
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employability Skills
Introduction to Materials Handling

LEVEL 1

Site Layout One: Distance Measuring and Leveling
Introduction to Concrete, Reinforcing Materials, and Forms
Handling and Placing Concrete
Introduction to Construction Technology

Construction Technology Units and Installation Techniques
Floor Systems
Wall and Ceiling Framing
Roof Framing
Roofing Applications

LEVEL 2

Exterior Finishing
Basic Stair
Electrical Safety
Residential Electrical Services
Introduction to HV AC
Introduction to Drain, Waste, and Vent (DWV) Systems
Plastic Pipes and Fittings
Copper Pipe and Fittings

7. Electric Works

This Electric Works course teaches enrolled inmates the technical aspects of electrical work, while at the same time providing actual hands-on opportunities to practice their newly learned skills on small scale construction projects. The instructor lectures and demonstrates how to do basic electrical wiring of a home or office building. Students learn the skeletal structure of a home and identify the various types of current, how it is wired and how to access it at its source. Students are also given hands-on tasks, such as installing an overhead light fixture and any electrical circuits that are associated with it. They are also taught how to troubleshoot electrical systems. The course requires a one-year commitment to complete. Certification is available from the National Center for Construction and Educational Research (NCCER). NCCER is a not-for-profit 501(c) (3) construction education foundation created in 1996. At present, the class is comprised of an instructor, 27 students and 3 teaching aides. Detailed course contents are set forth in **FIGURE 7**.

The course prepares students to become Electricians¹⁶ after a minimum of 12 months of on-the-job training. The mean pay rate for this occupation is \$31.36 per hour in California, where it was projected to have an average of 2000 openings each year between 2012 and 2022. This course also prepares students to become Construction Laborers¹⁷ after a moderate term (1-12 months) of on-the-job training. The mean pay rate for workers in this occupation is \$20.36 per hour in California, where it was projected to have an average of 5510 openings each year between 2012 and 2022.

¹⁶ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification in California.

¹⁷ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2061 in California.

FIGURE 7 - ELECTRIC WORKS COURSE CONTENT

CORE

Basic Safety
Introduction to Construction Math
Introduction to Hand Tools
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employability Skills
Introduction to Materials Handling

LEVEL 1

Orientation to the Trade
Electrical Safety
Introduction to Electric Grunts
Electric Theory
Five Introductions to NEC
Six Device Boxes
Hand Bending
Raceways and Fittings
Conductors and Cables
Basic Electrical Construction Drawings
Residential Electrical Services
Electrical Test Equipment

LEVEL 2

Alternating Current
Two Motors: Theory and Application
Electric Lighting
Conduit Bending
Nine Grounding and Bonding
Circuit Breakers and Fuses
Control Systems and Fundamental Concepts
Conductor Termination and Splices
Pull and Junction Boxes
Conduit Installations
Seven Cable Tray

LEVEL 3

Load Calculations- Branch and Feeder Circuit
Two Conductor Selecting and Calculations
Three Practical Applications of Lighting
Hazardous Locations
Over current Protection
Distribution Equipment
Transformers
Commercial Electrical Services
Motor Calculations Voice, Data, and Video
Motor Controls

LEVEL 4

Load Calculations- Feeders and Services
Health Care Facilities
Standby and Emergency Systems
Basic Electronic Theory
Alarm Systems
Specialty Transformers
Advanced Controls
AC Controls
Heal Tracing and Freeze Protection
Motor Operations and Maintenance
Medium-Volt Terminations/Splices
Special Locations
Fundamentals of Crew Leadership

8. Electronics

In this course, the instructor lectures and demonstrates the technical tools of the electronics technician vocation, including, among other aspects of electronics, low voltage, DC circuits, grounding, buses, networks, maintenance, repair, audio systems and security systems. Students also develop hands-on skills in electronics. The program requires at least a one (1) year commitment after which students will obtain certifications as an Electronics Systems Technician. This program consists of three levels of certification in networking, cable, and fiber optic technology. The certifications are by the National Center for Construction and Educational Research (NCCER). NCCER is a not-for-profit 501(c) (3) construction education foundation created in 1996. There are currently twenty-seven (27) students with three teacher aides.

The Electronics program consists of five levels of training and practice: core, and levels 1-4. Textbooks are from the NCCER Contren® Learning Series. The program prepares students to become Electrical and Electronic Engineering Technicians.¹⁸ The mean pay rate for this occupation is \$31.78 per hour in California, where it was projected to have an average of 470 openings per year between 2012 and 2022. Details of course content are set forth in **FIGURE 8**.

¹⁸ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 17-3023 in California.

FIGURE 8 – ELECTRONICS COURSE CONTENT

CORE

Basic Safety
Introduction to Construction Math
Introduction to Hand Tools
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employability Skills
Introduction to Materials Handling

LEVEL 1

Introduction to the Trade
Construction Methods 1
Construction Methods 2
Four Pathways and Spaces
Mathematics
Hand Bending Conduit
National Electric Code
Low Voltage Cabling

LEVEL 2

DC Circuits
AC Circuits
Switches and Timers
Semiconductors IC
Test Equipment
Six Drawings
Codes and Standards
Cable Selection
Cable Terminations
Grounding

LEVEL 3

Buses and Networks
Fiber Optics
Wireless Communication
Project Planning
Crew Leadership
Rack Assembly
Systems Commissioning
Maintenance and Repair

LEVEL 4

Audio Systems
Video Systems
Broadband Systems
Media Systems
Telecommunications
Network Systems
Call Security Systems

9. Heating, Ventilation, Air Conditioning (HVAC)

The HVAC course teaches enrolled inmates the technical aspects of heating, ventilation, air-conditioning and refrigeration mechanics, while at the same time providing actual hands-on opportunities to practice their newly learned skills on small scale construction projects. The course requires a one-year commitment to complete and is certified by the National Center for Construction and Educational Research (NCCER). NCCER is a not-for-profit 501(c) (3) construction education foundation created in 1996. At present, the class is comprised of an instructor, 27 students and 3 teaching aides.

The HVAC training consists of five levels of study and practice. The textbooks used are from the NCCER Contren® Learning Series. The five levels are referred to as the “CORE” level and levels one through four. This course prepares students to become Heating/Air Conditioning and Refrigeration Workers¹⁹ after a minimum of 12 months of on-the-job training. The mean pay rate for workers in this occupation is \$26 per hour in California, where it was projected to have an average of 970 openings each year between 2012 and 2022.

This course also prepares students to become Construction Laborers²⁰ after moderate-term (1-12 months) on-the-job training. The mean pay rate for workers in this occupation is \$20 per hour in California, where it was projected to have an average of 5510 job openings/year between 2012 and 2022. Course content is set forth in **FIGURE 9.**

¹⁹ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification in California.

²⁰ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2061 in California.

FIGURE 9 - HVAC COURSE CONTENT

CORE

Basic Safety
Introduction to Construction Math
Introduction to Hand Tools
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employability Skills
Introduction to Materials Handling

LEVEL 1

Introduction to HVAC
Trade Mathematics
Copper and Plastic Piping Practices
Soldering and Brazing
Ferrous Metal Piping Practices
Basic Electricity
Introduction to Cooling
Introduction to Heating
Water Treatment!

LEVEL 2

Commercial Airside Systems
Chimneys, Vents, and Flues
Introduction to Hydronic Systems
Air Quality Equipment
Leak Detection, Evacuation, Recovery, and Charging
Alternating Current
Basic Electronics
Introduction to Control Circuit
Troubleshooting
Troubleshooting Gas Heating
Troubleshooting Cooling
Eleven Heat Pumps
Basic Installation and Maintenance Practices
Sheet Metal Duct Systems
Fiberglass and Flexible Duct Systems

LEVEL 3

Refrigerants and Oils
Compressors
Metering Devices
Retail Refrigeration Systems
Commercial Hydraulic Systems
Steam Systems
Planned Maintenance
Troubleshooting Electronic Controls
Troubleshooting Oil Heating
Troubleshooting Heat Pumps
Troubleshooting Accessories

LEVEL 4

Construction drawings and specifications
System balancing
Indoor air quality
Energy conservation equipment
Building maintenance systems
System startup and shutdown
Heating and cooling system design
Commercial and industrial refrigeration
Alternative heating and cooling systems
Introduction to supervisory skills

10. Masonry

Masonry students learn a variety of skills; including basic bricklaying, block construction, preparing mortar, spreading, cutting and furrowing, buttering joints, and understanding wall structures. The student learns how to construct fire places and benches and to erect pillars. Top skills used in this job are active listening, coordination and operation monitoring. The student also learns how to perform tasks involving physical labor at building, highway, and heavy construction project sites, tunnel and shaft excavations and demolition sites. Techniques are developed for smoothing and finishing surfaces of poured concrete, such as floors, walks, sidewalks, roads, or curbs, using a variety of hand and power tools. This one year course accommodates 27 students, and is taught by an instructor and three teaching aides. The course consists of four components, including the Core component and three skill levels. Details of course content are set forth in **FIGURE 10.**

The course prepares students to become Cement Masons and Concrete Finishers.²¹ Employers usually expect a person in this occupation to do the job after a minimum of 12 months of on-the-job training. The mean pay rate for this occupation is \$23.95 per hour in California, where it was projected to have 750 job openings each year from 2012 to 2022.

The course also prepares students to become Construction Laborers²². Employers usually expect a person in this occupation to do the job after 1 to 12 months of on-the-job training. The mean pay rate for this occupation is \$20.35 per hour in California, where it was projected to have 5,510 job openings each year through 2022.

²¹ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2051 in California.

²² 47-2061.

FIGURE 10 - MASONRY COURSE CONTENT

CORE

Basic Safety
Introduction to Construction Math
Introduction to Hand Tools
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employability Skills
Introduction to Materials Handling

LEVEL 1

Introduction to Masonry
Masonry Tools and Equipment
Measurements, Drawings, and
Specifications
Mortar
Masonry Units and Installation
Techniques

LEVEL 2

Residential Plans and Drawing
Interpretation
Residential Masonry
Grout and Other Reinforcement
Metal Work in Masonry
Advanced Laying Techniques
Construction Techniques and Moisture
Control
Construction Inspection and Quality
Control

LEVEL 3

Masonry in High Rise Construction
Specialized Materials and Techniques
Repair and Restoration
Commercial Drawing
Estimating
Site Layout- Distance Measurement
Introductory Skills for Crew Leader

11. Plumbing

In this course, the instructor lectures and demonstrates the technical tools of the plumbing trade, including water distribution, drain, waste, vent, and gas pipe systems. Students learn how to set fixtures and read basic plumbing blueprints. They also have the opportunity to learn hands-on skills on small scale construction related projects. The class requires a one-year commitment to complete and is certified by the National Center for Construction and Educational Research (NCCER). NCCER is a not-for-profit 501(c) (3) construction education foundation created in 1996. At present, the class is comprised of an instructor, 27 students and 3 teaching aides.

Plumbing training consists of five levels of study and practice. The textbooks used are from the NCCER Contren® Learning Series. The five levels are referred to as the “CORE” level and levels one through four. The course prepares students to become Plumbers, Pipefitters, and Steamfitters²³ after a minimum of 12 months of on-the-job training. The mean pay rate for this occupation is \$30.29 per hour in California, where it was projected to have an average of 1250 openings/year (between 2012 and 2022.) This course also prepares students to become Construction Laborers²⁴ after a moderate term (1-12 months) of on-the-job training. The mean pay rate for workers in this Occupation is \$20.35 per hour in California, where it was projected to have an average of 5510 job openings each year between 2012 and 2022. Details of course content are set forth in **FIGURE 11**.

²³ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2152 in California.

²⁴ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 47-2061 in California.

FIGURE 11 – PLUMBING COURSE CONTENT

CORE

Basic Safety
Introduction to Construction Math
Introduction to Hand Tools
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employability Skills
Introduction to Materials

LEVEL 1

Introduction to the Plumbing Profession
Plumbing Safety
Tools of the Plumbing Trade
Introduction to Plumbing Math
Introduction to Plumbing Drawings
Plastic Pipe and Fittings
Copper Tube and Fittings
Cast iron Pipe and Fittings
Carbon Steel Pipe and Fittings
Introduction to Plumbing Fixtures
Introduction to Drain, Waste, Vent Systems
Introduction to Water Distribution Systems

LEVEL 2

Plumbing Math Two
Reading Commercial Drawings
Hangers, Supports, Structural Penetrations, Fire Stopping
Installing and Testing DWV Piping
Installing Roof, Floor, and Area Drains
Types of Venting
Installing and Testing Water Supply Piping
Installing Fixtures, Values, and Facets
Introduction to Electricity
Installing Water Heaters
Fuel Gas Systems
Servicing of Fixtures, Values, and Facets

LEVEL 3

Applied Math
Sizing Water Supply Piping
Potable Water Treatment
Backflow Preventers
Types of Venting
Sizing DWV and Storm Systems
Sewage Pumps and Sump Pumps
Corrosive-Resistant Waste Piping
Compressed Air

LEVEL 4

Business Principles for Plumbing
Introductory Skills for the Crew Leader
Water Pressure Booster
Indirect and Special Waste
Hydronic and Solar Heating System Codes
Servicing Piping Systems Fixtures, and Appliances
Private Water Supply Well Systems
Private Waste Disposal Systems
Summarizing Pools and Hot Tubs
Plumbing for Mobile Homes

12. Small Engine Repair

This course teaches enrolled inmates (students) the manipulative and mental skills necessary to troubleshoot, evaluate, disassemble, repair and reassemble non-automotive machinery and small engines such as lawn mowers, generators, weed-eaters, chain saws, and motor cycles. Four Stroke, Two Stroke and Associated Electrical Certifications are through the nationally accredited Equipment & Engine Training Councils (E.E.T.C). Course completion takes from six months to one year. The class has two teaching aides to assist the instructor and 27 students.

Students completing this course are employable as Outdoor Power Equipment Mechanics.²⁵ Employers generally expect individuals in this occupation to be able to successfully perform the work after one to twelve months of on-the-job training. The mean pay rate for workers in this occupation is \$17.66 per hour in California, where it was projected to have an average of 60 openings each year between 2012 and 2022. The small engine course consists of a CORE section followed by three additional levels of instruction. Details of course content are set forth in **FIGURE 12**.

²⁵ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 49-3053 in California.

FIGURE 12 – SMALL ENGINE REPAIR COURSE COMPONENTS

CORE

Basic Safety
Introduction to Construction Math
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employable Skills
Introduction to Materials Handling

LEVEL 1

Introduction to Small Engine Repair
Small Engine Repair Tools &
Equipment
Measurements, Drawings &
Mortar
Small Engine Repair Units &
Installation

LEVEL 2

Residential Plans & Drawing
Interpretation
Residential Small Engine Repair
Introduction to Hand Tools
Grout and Other Reinforcement
Metal Work in Small Engine Repair
Advanced Laying Techniques
Construction Techniques & Moisture
Control
Construction Inspection & Quality
Control

LEVEL 3

Small Engine Repair in High Rise
Construction
Specialized Materials & Techniques
Repair and Restoration
Commercial Drawing
Estimating Specifications Site Layout-
Distance Measurement & Leveling
Introductory Skills for Level Crew
Leader

13. Welding

The Welding vocation consists of training in CORE subjects and has three (3) additional levels for the student to complete. Among other skills, the curriculum includes the use of riggings, power tools, and various methods for welding all types of metal. The subject matter and necessary hands-on skills may take one or more years to master. In addition to the instructor, the class has 27 students and three teaching aides.

Students are eligible to receive National Center for Construction and Education Research (NCCER) certification. In addition to the NCCER Certificate, students can also be certified in Shielded Metal Arc Welding (SMAW), Flux Core Arc Welding (FCAW), Gas Metal Arc Welding (GMAW), and Gas Tungsten Arc Welding (GTAW). The course prepares students for the occupations of Structural Metal Fabricators and Fitters²⁶, and Welders, Cutters, Solderers, and Brazers.²⁷

Structural Metal Fabricators and Fitters have a mean pay rate of \$19.61 per hour in California, where this occupation was projected to have an average of 290 openings each year between 2012 and 2022.

Welders, Cutters, Solderers, and Brazers have a mean pay rate of \$20.81 per hour in California, where this occupation was projected to have an average of 770 openings each year between 2012 and 2022. Details of course content are set forth in

FIGURE 13.

²⁶ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 51-2041 in California.

²⁷ United States Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 51-4121 in California.

FIGURE 13 – WELDING COURSE COMPONENTS

CORE

Basic Safety
Introduction to Construction Math
Introduction to Hand Tools
Introduction to Power Tools
Introduction to Construction Drawing
Basic Rigging
Basic Communication Skills
Basic Employability Skills
Introduction to Materials Handling

LEVEL 1

Welding Safety
Oxyfuel Cutting
Plasma Arc Cutting
Air Carbon Arc Cutting and Gouging
Base Metal Preparation
Weld Quality
SMA W Equipment Setup
Shield Metal Arc Electrodes
SMAW Beads/Fillet Welds
Joint-Fit Up & Alignment
SMAW Groove Welds with Backing
SMAW Open V-Groove Welds

LEVEL 2

Welding Symbols
Reading Welding Detail Drawings
Physical Characteristics and Mechanical Properties of Metal
Reheating and Post Heating of Metals
GMA W /PCA W Equipment and Filler Metals
GTAW/ FCAW: Plate
GTAW: Equipment and Filler Metals
GTAW: Plate

LEVEL 3

SMAW Open Root Pipe Welds
Pipe
FCAW Pipe
GTAW-Carbon Steel Pipe
Low Alloy & Stainless Steel Pipe
Stainless Steel Groove Welds

FINDINGS

- F1. The scope of Academic, Vocational and Re-Entry programs at the California Correction Facility is commendably broad.
- F2. The content of the Academic, Vocational and Re-Entry programs at the California Correction Facility is impressive.
- F3. Program leaders and course instructors appear to be well qualified to provide the necessary leadership and instruction in regard to their respective roles.

RECOMMENDATIONS

None.

**MONTEREY COUNTY PARKS AND SCRAMP:
UNCERTAINTIES AND INSTABILITIES**



MONTEREY COUNTY PARKS AND SCRAMP: UNCERTAINTIES AND INSTABILITIES

SUMMARY

This report focuses on the past and present Laguna Seca concession agreement between Monterey County Parks Department (formed in 1966) and the Sports Car Racing Association of Monterey Peninsula (SCRAMP), a non-profit organization formed in 1957. Persistent community and media concerns about the contractual relationship between SCRAMP and the County Parks Department prompted this inquiry. SCRAMP is managing an iconic sports car racing venue in the Laguna Seca Recreational Area that is convenient to many other entertainment and recreational opportunities as well as to long established neighborhoods. Those adjacencies also mean that every Laguna Seca program change has to be considered in terms of potential traffic, noise and environmental impacts.

The Monterey County Civil Grand Jury (Jury) evaluated the County's past supervision of the Laguna Seca contract, i.e.; communications and responses to SCRAMP's performance within this complex concession agreement. SCRAMP launched an aggressive public relations campaign in 2015 to convince the community that SCRAMP should retain control of Laguna Seca Mazda Raceway. SCRAMP argued that it should stay because of its historic legacy, contributions to local charities over the years, and the desirability of local control rather than 'for profit' race management entities. These rationales are but one part of a predicament for the County that the County also unwittingly helped to create.

SCRAMP's management of Laguna Seca Mazda Raceway is unique in the racing world. Most other US raceways are owned and operated by private organizations. There is no public 'best practices' model for a County operating a sports car raceway.

These uncertainties gained greater proportions with the County's very uneven contract supervision between 2008 and 2014. When the Board of Supervisors declined to renew the Laguna Seca concession in 2014 and instead opted for a month-to-month agreement, the County finally offered a degree of clarity regarding SCRAMP's unsatisfactory performance.

The Jury's findings cast doubt on SCRAMP's ability, in its present form, to function as a reliable operator at Laguna Seca. These concerns arose as the Jury evaluated SCRAMP's organizational capabilities and its precarious financial position.

BACKGROUND

The San Francisco branch of the Sports Car Club of America sponsored Pebble Beach's first sports car race in 1950. When those races ended in 1956, the Sports Car Racing Association of Monterey Peninsula (SCRAMP) was formed to continue the tradition of Pebble Beach Road Races¹ but in a safer location. SCRAMP leased federal land from the US Army's Fort Ord base at the Laguna Seca dry lakebed to develop a raceway. At the time Fort Ord was home to the US Army's 7th Infantry Division. The Army Corps of Engineers helped with Laguna Seca's racetrack construction.

The federal government transferred Laguna Seca from Fort Ord holdings to the County of Monterey in 1974. The Laguna Seca Recreation Area was then developed, as part of Monterey County Parks, to expand on the existing racetrack with an archery range, pistol and rifle range, bicycle motocross trails and overnight campground facilities. Today the Laguna Seca Recreation Area has four revenue and expense categories for the racetrack, the park, special events and the rifle range. County Parks credits the concession revenue from SCRAMP into the racetrack cost center in the Laguna Seca Recreation Area. Direct park costs for the racetrack are also assigned to the racetrack cost center. At the end of the fiscal year when all of the County costs at Laguna Seca Recreation Area have been covered the remaining funds are primarily reserved to the

¹ History of the Pebble Beach Road Races. *Sports Car Digest*, August 9, 2013.
<http://www.sportscardigest.com/history-of-the-pebble-beach-road-races/>

Laguna Seca Track Assignment Fund, which now stands at \$3.7 Million. This County fund has financed more than \$6 Million for multi-year capital improvements at Laguna Seca in the last five or six years. These capital improvement resources are separate from the County's administrative costs for overseeing the County parks which have been estimated to be \$1 Million per year just for the racetrack alone. The Laguna Seca racetrack is not a "cash cow" scenario as alleged by SCRAMP² supporters at a community hearing in January 2016.

There are many stakeholders connected to Laguna Seca Mazda Raceway just as there are in the County overall. Ultimately the stakeholders who matter the most are the citizens of Monterey County. When the County agrees to dedicated and exclusive uses of a park for a special interest group (like sports car racing), then there should be offsetting benefits to ordinary citizens who don't happen to follow sports car racing. These can be a combination of direct benefits (enhancements to other recreational uses in the parks) and indirect benefits (outside visitors bring in business increasing the tax revenue for the County). Gauging these differing benefits and striking a balance is the job of the Monterey County Parks Department in consultation with the Parks Commission. The raceway was not deeded in perpetuity to SCRAMP, rather the entire park was deeded to the citizens of Monterey County.

But managing this concession with a special interest group like SCRAMP has been a real challenge for the County. As a result, SCRAMP has been surprisingly free to operate the raceway without much intervention from the County until March 2014. Historically the Monterey County Parks Commission also has not significantly participated in matters regarding the SCRAMP concession agreement.

SCRAMP from the beginning has had the tradition of volunteer participation and fan loyalty. It has impressive event management and publicity capabilities to put on five major racing events each year with 25 full-time staff and hundreds of volunteers. Prior

² Wanted: Financially stable raceway manager able to maximize Laguna Seca's potential. *Monterey Herald*, January 7, 2016. <http://www.montereyherald.com/article/NF/20160107/NEWS/160109851>

to January 2016 SCRAMP also had a 25-member Board of Directors. Many of these Directors had begun with SCRAMP as volunteers, and then after several years were invited to the Board. A few Board members were invited to the Board earlier than that because of specific skill sets. Most of the pre-2016 Board Members had served for decades, with one recent retiree having served 45 years.

The primary duties of a non-profit Board of Directors are to look after short and long term³ organizational planning and financial stability. While SCRAMP does have dedicated professional staff to guide the organization, in the end the Board of Directors is responsible for the organization's success and the agility to succeed in changing environments. SCRAMP announced a re-organization of its Board in late 2015, dropping the 25 Board seats to nine. Six of those seats are now held by local industry and business leaders. This new "Board of Governors" convened in January 2016.

The current concession agreement between SCRAMP and the County Parks began in 2000 (see Table on the following page).

The County announced a February 2016 call for Expressions of Interest from qualified entities that could provide management services for the Laguna Seca Recreation Area (either just for the racetrack or for all of the recreation sites within Laguna Seca) by October 2016. After these Expressions of Interest are filed with the County in the spring of 2016 then the next stage will be for the County to ask for formal RFP's or Requests for Proposals. SCRAMP is expected to file an Expression of Interest and ultimately a Proposal to continue its management of the racetrack and possibly the entire recreation area.

³ What are the Basic Responsibilities of Nonprofit Boards? BoardSource.
<http://www.bridgespan.org/Publications-and-Tools/Nonprofit-Boards/Nonprofit-Boards-101/Basic-Responsibilities-Nonprofit-Boards>

<i>Description</i>	<i>Signature Date</i>	<i>Effective until:</i>
<i>Original concession agreement</i>	<i>2/8/2000</i>	<i>12/31/2005</i>
<i>Amendment #1 to allow SCRAMP to accept first Mazda sponsorship</i>	<i>12/12/2000</i>	<i>12/12/2005</i>
<i>Amendment #2 Extends County & SCRAMP agreement</i>	<i>2/5/2002</i>	<i>2/8/2012</i>
<i>Amendment #3 to Accept 2nd Mazda sponsorship</i>	<i>12/13/2005</i>	<i>12/31/2011</i>
<i>Amendment #4 between County Parks and SCRAMP</i>	<i>1/30/2012</i>	<i>3/1/2013</i>
<i>Amendment #5 specifies funds for capital improvements</i>	<i>5/8/2012</i>	<i>3/31/2013</i>
<i>Amendment #6: One additional year</i>	<i>3/26/2013</i>	<i>3/31/2014</i>
<i>County Parks to SCRAMP: We will not renew but will consider the agreement on a month to month basis</i>	<i>3/19/2014</i>	<i>still month to month as of 4/10/16</i>
<i>Board of Supervisors: We are willing to revise from month to month to a one year agreement</i>	<i>12/8/2015 Supervisor Salinas to SCRAMP</i>	<i>SCRAMP declined one year agreement as of March 2016</i>

SCRAMP has protested that the County should have disclosed previous negotiations with other potential raceway operators like the International Speedway Corporation (ISC), and that those discussions were essentially a “betrayal” of SCRAMP. The raceway and related facilities were financed and built over the years by SCRAMP. The current depreciated value of the racetrack is now worth approximately \$12 Million. SCRAMP has also contended that the County had limited SCRAMP’s ability to be successful by failing to approve proposals for new income generating activities.

But the County Board of Supervisors has remained firm that the concession for Laguna Seca has to go out to bid. SCRAMP still may compete with other bidders according to the requirements noted in the Request for Proposals. The Hospitality Association for Monterey County (HAMC) submitted a letter of support for the Laguna Seca bid process to the Board of Supervisors on November 30, 2015. Their memo concluded that a history of adequate financial resources and stability are key characteristics of a stable raceway operator.

INVESTIGATIVE METHODOLOGY

The Jury conducted thirteen interviews by meeting with nine County officials and four SCRAMP officials. The emphasis was on the financial aspects of the concession agreement, the checks and balances on SCRAMP's performance, SCRAMP's 2011 and 2014 draft program proposals, and the County's decision-making regarding Laguna Seca Mazda Raceway events and facilities. More than 400 pages of contracts, sponsorship agreements, financial reports, email and US Mail correspondence were reviewed. Several interviewees agreed to respond to follow-up questions to help the Jury understand the many uncertainties between the County and SCRAMP.

DISCUSSION

Just about every individual and organization in this county, state and country was affected by our economy's 2008 financial meltdown. After the initial shock of falling revenues, depressed real estate prices, and a stagnant job market, finances had to be reorganized no matter the size of the family or organization. And even in a recession individuals and businesses that delay payments to creditors earn reduced credit scores and have difficulty borrowing for capital improvement projects. It is no surprise that SCRAMP was adversely affected by the economy's crash because family and business discretionary spending declined significantly. What is difficult to understand, though, is SCRAMP's ability since 2008 to sidestep the financial realities that regular citizens and most public and private organizations face.

Historically SCRAMP had regularly experienced high revenue during the Spring to Fall racing season and then very little revenue during the Winter. Before 2008 there were sufficient revenues to cover the Winter cash flow shortfalls, but the recession changed that. SCRAMP's prior business planning had not adequately addressed the need for operating reserves which would cover fixed costs during the low revenue periods. SCRAMP would have demonstrated greater organizational insight if they had taken steps shortly after 2008 to refocus their short and long term program goals, to strengthen their cost controls, and to develop operating reserves and financial management strategies. SCRAMP would have had more credibility with the County today if there had been evidence of these basic sound business practices. Faced with revenue reductions, SCRAMP did have some layoffs. But their primary financial strategy after 2008 was to juggle creditors and delay debt payments. The County routinely received SCRAMP payments two or more quarters later than specified in the contract. Vendors and civic organizations were paid long after the customary 30-day invoice period. SCRAMP officials rationalized that their non-profit status allowed them to delay these payments, and that the delays could be excused as all of these debts were cleared within 12 months. (The County did have a period of time when SCRAMP payments were 18 months late.) These delays financially burdened the businesses and civic groups that provided goods and services to SCRAMP. These practices have damaged SCRAMP's goodwill in the business and non-profit communities. SCRAMP's business practices have also compromised its negotiating position with the County.

SCRAMP runs five major racing events each year, but they also oversee other uses of the racetrack by driving schools and racing clubs. The County books a few events each year like the cycling Sea Otter Classic, but the majority of events are coordinated by SCRAMP. SCRAMP's total annual revenue has ranged between \$10 and \$15 Million each of the last several years.

SCRAMP's major sports car racing events are governed by agreements with the racing promoters, and SCRAMP has suggested that the terms have not always been favorable to SCRAMP. The sound and traffic limitations at Laguna Seca have also precluded a

wider range of professional sports car event bookings. There is also acknowledgement, both within the County and SCRAMP, that the racetrack facilities have needed improvement for some time.

SCRAMP submitted two Draft program plans (in 2011 and 2014) for discussion with the County. The 2014 plan appears to be an update of the 2011 plan. These plans included proposals for various income generating activities, but lacked comprehensive business plans and appropriate environmental acknowledgements. SCRAMP and the County met on several occasions to discuss what additional considerations were needed before SCRAMP's plans could be brought to the Board of Supervisors. But SCRAMP left these proposals incomplete and as a result there was no plan approval or denial from the County. SCRAMP used their marketing and public relations expertise to develop their proposals without acknowledging to the County or Monterey citizens that good business practices are essential to the success of any organization, particularly in a changing environment.

Both of these Draft program plans included detailed facility improvement plans and attendance estimates. Earnings were projected using the basic marketing strategy of "...if you build it, they will come." While this optimism may appeal to racing enthusiasts, it was not accompanied by the financial stability essential for this degree of risk taking.

SCRAMP's plans did not address how media and internet accessibility has changed the racing fan base. Sports car racing and every other national and international sporting event with broadcasting rights has changed attendance patterns.⁴ SCRAMP's plans seem to primarily focus on existing racing enthusiasts who are aging out as younger attendees go elsewhere.⁵ These forces are also in play as SCRAMP struggles to establish a viable strategy.

⁴ After Renovation, a Track That Opened In 1959 No Longer Feels Like an Antique. *New York Times*, February 21, 2016.

⁵ Why Running Laguna Seca is a Job No One Would Want. Mitchell Pruett, Black Flag blog in *Racer Magazine* August 14, 2015.

But SCRAMP's organizational and financial difficulties are not the only reasons that the concession relationship with the County has faltered. The County Parks Department has had four Directors (including one Acting Director) in four years. This limited the consistent institutional knowledge and experience needed to properly supervise the concession agreement. This was also accompanied by three finance officers in the Parks Department in the last three years. Retirements and resignations are part of every organization's turnover, but these concentrated vacancies in the Parks Department adversely affected the County's understanding of SCRAMP's financial position.

Several consultants have been engaged to advise the County regarding the Parks Department and the Laguna Seca raceway specifically. The Barrett Sports Group, LLC was hired to evaluate alternative management options for the Laguna Seca Raceway and Barrett still advises the County as of April 2016.

There was general awareness among County decision makers since 2008 that SCRAMP was not making County payments on time. But the County didn't confront SCRAMP regarding these delays until March 2014 when the Board of Supervisors would only agree to a concession contract on a month to month basis.

There were other reasons for the County's delayed attention to SCRAMP. Between 2008-2014 the County had other problems in Parks because the drought severely limited concession operations at Lake San Antonio. There also was a racing school on site at the racetrack that had not paid its usage fees to the County for years. These concerns were addressed by the County before tackling the problems with SCRAMP. The County solved the racing school problem at Laguna Seca by insisting that access to the track would not be given until advance payment was made and that those payments had to go directly to SCRAMP. The County did not anticipate that these racing school funds would then become part of SCRAMP's delayed payments owed to Monterey County.

Based on discussions with SCRAMP representatives, the Jury estimates that there is at least a \$250,000 operating shortfall each year and that a short term operating reserve would need to be in the \$1-\$2 Million range. Furthermore, there are County estimates that the raceway will need approximately \$10 Million in capital improvements in the next five years. SCRAMP received \$2.4 Million in Mazda sponsorship funds specifically intended for capital improvements between 2012-2017, but most of those funds were diverted by SCRAMP to subsidize operating costs. SCRAMP believes it is still in compliance with the third Mazda sponsorship agreement since the improvements will be completed by the 2017 deadline noted in the agreement. But SCRAMP expects to take out loans to complete these capital improvements. The County plans to engage an outside Compliance Audit to determine if the Mazda funds have been properly used by SCRAMP.

While SCRAMP has financed millions of dollars of racetrack improvements since 1957, when those improvements are complete the buildings are turned over to the County. SCRAMP failed to produce the contractually required certified audit report for the year 2014 as of March 2016; this is nine months after the May 2015 due date. The first 2014 audit had to be withdrawn because the racetrack assets were reported as SCRAMP property when in fact the County owns the facilities.

Although SCRAMP's late payments began soon after 2008, the Jury's review of correspondence from the County did not reveal a clear and direct message to SCRAMP that the late payments were unacceptable and would compromise future renewals. Late fees were assessed and paid but SCRAMP did not change its accounts payable practices to avoid such penalties. SCRAMP officials insist that their Board of Directors reviewed financial reports and the age analysis of unpaid bills in every Board meeting.

The County also determined in 2015 that SCRAMP underreported income producing event activities that the concession agreement described as subject to income sharing with the County. SCRAMP's revenue reports back to 2004 were used by the County to

calculate owed back payments and late penalties. (This assessment has been contested by SCRAMP.)

SCRAMP's event attendance drives an economic benefit for Monterey County because fans come to the area for auto racing, but then they may also eat out, visit the Monterey Bay Aquarium, play golf, fill their cars with gas and stay in local motels. But sports car racing is not the only economic multiplier that can come from Laguna Seca events. Visitors coming to the Monterey Peninsula for other events at Laguna Seca will still spend money here for goods and services. SCRAMP's economic multipliers derive from five major events with large attendance, but smaller and more frequent events also have the potential of generating similar economic multipliers benefitting the local economy.

FINDINGS

- F1. SCRAMP has not been a financially fit concessionaire to the County since 2008.
- F2. The County did not confront SCRAMP with a direct communication that SCRAMP's late payments and business practices jeopardized its contractual agreement with the County until March 2014.
- F3. SCRAMP's 2011 and 2014 draft proposals have not adequately addressed the realities of a "boutique" racing venue with significant traffic and sound restrictions in an environmentally sensitive location.
- F4. The County has delayed acting on SCRAMP's proposals without clearly communicating in writing how and why these proposals were inadequate i.e.; because 1) SCRAMP did not explain how environmental impacts, such as noise and traffic, would be mitigated and 2) SCRAMP failed to demonstrate that it possessed the necessary financial capabilities to operate the racetrack.
- F5. SCRAMP's 'philanthropic' contribution to local civic groups might be better described as "assisting civic fund raising on County land." Civic groups and their volunteers are paid for providing services during a racing event, like parking cars or serving ice cream.

- F6. It is essential that SCRAMP or its successor at Laguna Seca demonstrate organizational adaptability.

RECOMMENDATIONS

- R1. The County of Monterey should assign sufficient staff with both managerial and financial expertise to oversee the agreement and fiscal operations of the Laguna Seca Recreational Area. This position should have enough standing to directly advise County decision makers.
- R2. The County's next concession agreement for the racetrack should be explicit that program proposals are the responsibility of the SCRAMP Board of Governors (or its successors).
- R3. The County should immediately assure that all environmental surveys of the park are clearly communicated to bidders participating in the RFP process.
- R4. The new concession agreement should clearly define the operator's philanthropic responsibilities to local civic groups.
- R5. SCRAMP or its successor should be required to notify the County of loans or transfers between operating and capital and any loans that restructure financing for approved capital projects.
- R6. The County's next concession agreement for the racetrack should oblige a full cost and rate review of all income and non-income producing uses of the facility. This rate review should be undertaken regularly but at least every other year as part of the operator's best practices and should be available for inspection by the County.
- R7. Monterey County Parks and the Parks Commission should be advised and have input into any plan to expand recreational uses of the Laguna Seca Recreation Area. There may be alternative uses of the Laguna Seca property and these discussions should always be part of concession agreement negotiations. But, if the noise, traffic and environmental constraints truly preclude a successful sports car racing program then Monterey County should initiate some long range planning to reconfigure the recreational uses of the Laguna Seca Recreational Area.

RESPONSES REQUIRED

Pursuant to Penal Code Section 933.05, the Grand Jury requests a response as indicated below from the following officials or governing bodies:

Monterey County Board of Supervisors:

All Findings and Recommendations

PACIFIC GROVE SEWAGE SPILL



PACIFIC GROVE SEWAGE SPILL

SUMMARY

Rarely in our everyday lives do we think about everything that goes on beneath our feet. Once in a-while events occur that remind us of the importance of what we take for granted. A sewage spill from a pump station in Pacific Grove (PG) into the Monterey Bay on May 18, 2015, was one such event. This spill led the 2015-16 Monterey County Civil Grand Jury (MCCGJ) to inquire into the details of the spill, and to question the general integrity of the sewer system in PG.

We found that accountability for the spill did not squarely fall on the City of PG. The pump station where the spill occurred was owned and operated by the Monterey Regional Water Pollution Control Agency (MRWPCA).¹ We found that MRWPCA's response in dealing with the May 18 spill was necessary given their options. We also found that the circumstances of the spill were unrelated to the condition of PG's sewer infrastructure overall.

Even though the spill was unrelated to PG's sewer infrastructure, the MCCGJ still inquired into the condition of PG's sanitary sewer system. We found that PG has kept up replacement of the worst areas identified in their 2004 Sewer System Management Plan (SSMP),² and is continuing to make improvements outlined in PG's 2014 SSMP³ as funds and opportunities become available.

This report will explain how and why the May 18 spill occurred, as well as what actions have been taken to correct the faulty equipment that caused it. It will also discuss the steps PG has taken to complete projects outlined in its 2004 SSMP. In addition, this report will discuss how PG residents can contribute to minimizing spills.

¹ Pacific Grove 2014 SSMP.

² Work orders and notices of completion submitted by City of Pacific Grove.

³ City council agenda reports and Interviews.

BACKGROUND

Monterey Bay became the 11th national marine sanctuary on September 18th 1992.⁴ For recreation, tourism and science, this ecosystem is visited annually by millions. It serves as an annual throughway for the migration of multiple species of birds, fish and mammals, some of which are protected species. The bay itself is studied for the depth of the canyon that lies just offshore. The responsibility to protect and maintain this sanctuary falls on the citizens and municipalities of this county to preserve it for many generations to come.

From the early 1990's to 2004, the city of PG had frequent problems with sewage spills.⁵ Some of these spills reached and emptied into the Monterey Bay. A consent decree from Ecological Rights Foundation v. City of Pacific Grove Case #CO3-2612 PVT⁶ prompted PG to come up with a 10 year plan for Capital Improvement Projects (CIP). This met the requirement of the 2006 State Water Resources Control Board order 2006-0003-DWQ⁷ which required all federal or state entities and municipalities that maintained a sewer system greater than 1 mile to develop a SSMP.⁸ The purpose of an SSMP is to reduce sanitary sewer overflows (SSO) or sewage spills, provide a response plan, and set maintenance guidelines.

The city of PG has 12 sewer districts consisting of 58 miles of pipe, 900 manholes and 9 pump stations. Much of this pipe is vitrified clay pipe (VCP) installed from the early 1900's to the 1960's. As the worst of the older pipes degrade in functionality, the city has replaced them with more modern pipes such as Polyvinyl chloride, better known as PVC. To date, most of the piping still functions, but is close to the end of its life expectancy or cannot keep up with the current need for flow capacity. The pump stations are maintained by MRWPCA, and two of the nine pump stations are owned by MRWPCA.

⁴ <http://montereybay.noaa.gov/intro/welcome.html>

⁵ <http://www.pacificgrove.com/sewer/spilllist.html>

⁶ Case # CO3 – 2612 PVT.

⁷ http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2006/wqo/wqo2006_0003.pdf

⁸ State Water Resources Control Board order 2006-0003-DWQ.

PG has come a long way in reducing spills over these last 10 years, but there will always be a need for regular maintenance and capital improvements to keep its sewer system functional and minimize the possibility of sewage spills.

INVESTIGATIVE METHODOLOGY

The MCCGJ's methodology involved three steps:

- Gathering information on PG's sewer infrastructure. This was done by reviewing PG's 2004 and 2014 SSMP, city council minutes, state orders, and other documents;
- Interviewing city officials and relevant persons involved with PG's sewer system and the May 18 spill;
- Verifying all collected information against incident reports and documents showing work completed.

The Grand Jury completed the following activities to investigate the state of Pacific Grove's Sewer infrastructure:

- Reviewed Pacific Grove's Sewer Plans from 2004, 2013 and 2014.
- Reviewed Pacific Grove's 10 Year Sewer Collection System Financial Plan and Rate Study.
- Reviewed California State Water Resources Control Board order 2006-0003-DWQ and other reports.⁹
- Interviewed Pacific Grove city officials, Public Works personnel and representation from MRWPCA.
- Conducted a site visit at the pump station at Fountain Avenue.
- Reviewed documents to verify work completed:
 - Repair and replace D and F rated pipes;
 - Install Urban Diversion System;
 - Rehabilitate Pump Stations;
 - Replace or reconstruct Phase 7 sewer lines, mains and manholes.

⁹ http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2006/wgo/wgo2006_0003.pdf

DISCUSSION

This investigation focused on two major concerns: the May 18 sanitary sewer overflow, and the state of PG's sanitary sewer system and how it is currently maintained.

MAY 18 SANITARY SEWER OVERFLOW

The May 18 SSO occurred because of a false pressure reading during repairs to the pump station at Fountain Avenue in PG. MRWPCA maintenance personnel began repairs on the pump station. After pressure readings on pump #2 revealed no pressure in the system, they unbolted the plug-valve¹⁰ for that pump. This in turn released an unexpected backflow of sewage that began to flood the pump station. Following protocol, MRWPCA reacted to the fast flooding pump station. Every agency on their list was called for assistance, and Vactor trucks (each capable of pumping and holding 1 to 3 thousand gallons at a time) were dispatched to the pump station. Realizing that the use of Vactor trucks would be insufficient to stem flooding in the pump station, MRWPCA diverted sewage directly into the Monterey Bay. The alternative would have allowed overflowing from the pump station. This flow would have spilled across the recreation trail and ended up in the Monterey Bay.

The magnitude of this spill was estimated as 219,733 gallons of untreated sewage.¹¹ MRWPCA reacted appropriately calling for assistance from all local agencies that could help. Their actions lessened public exposure to raw sewage avoiding a hazardous material spill on the recreation trail and protected the pump station itself from costly damage to the electrical equipment on its second floor. MRWPCA has approved and planned the installation of a redundant valve to prevent future spills within the pump station at Fountain Ave. They have also developed protocols from this experience that could help prevent future spills of this kind.¹²

¹⁰ Refer to Appendix C.

¹¹ SSO Technical Report.

¹² Pump Station 15 Standard Operating Procedures.

THE STATE OF PG'S SANITARY SEWER SYSTEM

The second part to this investigation revealed much about PG's efforts over the years to comply with state mandates and a consent decree related to their sewer system. In 2004 PG hired HDR Engineering to develop a 10 year SSMP that would provide direction for sewer related CIP. This plan assigned an A to F grade to sewer pipes within the city. By October 16, 2015, the city completed replacement and repairs of all F and D rated pipes outlined in the 2004 SSMP. Included in the projects was the rehabilitation of two PG owned pump stations, one at Eardley, and the other at Oceanview. Additionally, on June 3, 2013, the city completed an urban runoff diversion system to collect storm water and send it to a MRWPCA treatment plant in Marina. This urban runoff diversion system is used during the first few rainfalls of the year to keep contaminants out of the bay. This practice is called the First Flush.¹³

PG has since hired another engineering firm, Wallace Group, to develop a new 10 year plan. This plan was developed in 2014, and lists CIP work for the next 10 years. The 11 projects listed in the 2014 SSMP will replace or repair approximately 25% of PG's sanitary sewer system. This includes an additional 4.6 miles of VCP that through Wallace Group's assessment received a grade of F. This newly F rated pipe was in better condition 10 years ago, but has since degraded highlighting the need to appropriately fund sewer projects on a regular basis.

Projects that are currently approved by PG's city council include sewer infrastructure under Mermaid Avenue & Ocean Boulevard, as well as 14th Street: Sinex to Pine Avenue. Each of these projects has received matching state funds.

To determine what rate increases will be necessary to pay for the projects outlined in the 2014 SSMP, Wallace group contracted with David Taussig & Associates (DTA).

¹³ More information on First Flush at <http://www.cityofpacificgrove.org/living/green-pg/environmental-programs-grants>

Based on the DTA rate study,¹⁴ the city of PG utilized the proposition 218 process to increase rates to pay for CIP projects proposed in the 2014 SSMP. Proposition 218 was adopted giving PG the rate increases it needs.

Minor spills that have not reached the bay have been caused by clogging of pipes. Fats, oils, grease as well as non-flushable wipes and other non-flushable items are the largest contributors to these spills. Even though some wipes claim they are flushable on the package, the city assures us they are indeed not flushable.¹⁵ PG households and businesses have been encouraged to minimize overflows by using biodegradable toilet paper, and not pouring cooking oil down the sink. Proposition 218 also designates funds for public education on this matter.

MAINTENANCE

The MCCGJ is concerned with how PG's sewer system is being currently maintained. The 2014 SSMP noted there are few people staffed to maintain the 58 miles of sewer pipe for which PG is responsible. Interviews revealed that PG contracted with two companies to conduct sewer maintenance within the city. The first is Greenline, who is responsible for flushing out the city's 12 sewer districts over the course of a year. Greenline is also responsible for responding to small overflows when they occur. The second is Root Tamers, who specializes in dealing with root intrusion which degrades and damages pipes. These companies act under the direction of the city to perform regular maintenance.

¹⁴ *10-Year Sewer Collection System Financial Plan and Rate Study*. Prepared by David Taussig & Associates Inc. for City of Pacific Grove and Wallace Group. February 23, 2015.

¹⁵ Refer to Appendix B.

FINDINGS

- F1. MRWPCA is responsible for the May 18, 2015, sanitary sewer overflow at Fountain Avenue, Pacific Grove. They own and operate said pump station, and were making repairs there when the overflow occurred.
- F2. MRWPCA did not have a procedure to address potential false pressure readings during valve maintenance on May 18, 2015.
- F3. Diverting the SSO into the Monterey Bay prevented a costlier and hazardous uncontrolled overflow. MRWPCA's response in dealing with the May 18 SSO was appropriate given the alternative.
- F4. The condition of PG owned sewer infrastructure was unrelated to the circumstances of the SSO on May 18, 2015.
- F5. PG fulfilled its obligation in the Ecological Rights Foundation v. City of Pacific Grove Case #CO3-2612 PVT.
- F6. PG has so far only approved projects outlined in the 2014 SSMP when matching funds are available.
- F7. Due to rate increases from Proposition 218, PG will have sufficient funds to resolve the sewer infrastructure issues identified in the 2014 SSMP.
- F8. PG is sufficiently maintaining its sanitary sewer system through its contracts with Greenline and Root Tamers.

RECOMMENDATIONS

- R1. MRWPCA implement staff training to account for and manage situations of false equipment readings.
- R2. The City of Pacific Grove prioritize sewer projects based on severity of pipe degradation and public need.
- R3. The City of Pacific Grove annually budget for sewer projects using Proposition 218 funds and other funds as they become available.
- R4. The City of Pacific Grove actively seek matching funds for the sewer projects.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

Monterey Regional Water Pollution Control Agency, Board of Directors:

Findings F1 –F4 and Recommendation R1

Pacific Grove City Council:

Findings F4 – F8 and Recommendations R2 –R4

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http://www.waterboards.ca.gov/water_issues/programs/ssso/docs/compliance_report_fy1213.pdf

GLOSSARY:

PG- CITY OF PACIFIC GROVE

MCCGJ – MONTEREY COUNTY CIVIL GRAND JURY.

MRWPCA – MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY.

CIP - CAPITAL IMPROVEMENT PROJECTS.

SSO – SANITARY SEWER OVERFLOWS.

PVC – POLYVINYL CHLORIDE.

VACTOR TRUCKS - Clean and maintain sewer lines, catch basin and storm drain systems with expertise application of pneumatics and high pressure water for safe and productive non-destructive excavation of natural or man-made restrictions within the system.

FIRST FLUSH – The city of PG with MRWPCA has incorporated lift stations to pump the annual first storm water run-off into MRWPCA sewer system for collection and treatment.

APPENDIX A: LIST OF CIP PROJECTS OUTLINED IN PACIFIC GROVES 2014 SSMP

Table 6-2. City of Pacific Grove Near Term Capital Improvement Program

Project #	Title	Description	Length (ft)	Old Diameter (in)	New Diameter (in)	Street	Location	Upstream Manhole Number	Downstream Manhole Number	Upgrade to Meet Future Needs*	Traffic Control	Construction Cost (\$)	Subtotal (\$)	Total Project Cost (\$)**
1	17 Mile	Upgrade sewer main due to capacity deficiency	2,900	8	12	17 Mile Drive	Marilla Road from Treasure Road to 17-Mile Drive and 17-Mile Drive from Marilla Road to Sunset Drive	510	501	No	Heavy	\$400	\$1,160,000	\$1,624,000
2	Oceanview & Mermaid	Replace sewer mains due to age & condition	1,850 150 100 2,250	6 6 8 8	8 8 8 12	Mermaid Mermaid Chile Oceanview	Oceanview Blvd to Sea Palm Ave Mermaid to Oceanview Blvd Mermaid to Oceanview Blvd Marina Street to Balboa Ave	E749 749 750 748	744 748 7747 741	No No No No	Moderate Moderate Moderate Heavy	\$480 \$480 \$720 \$500	\$906,000 \$85,000 \$72,000 \$1,137,000	\$1,288,000 \$116,000 \$101,000 \$1,982,000
Total Length 6,300														
3	Aellonar	Upgrade sewer main due to capacity deficiency (Increase Slope)	2,150	15	15	Aellonar Avenue	Lighthouse Ave to Del Monte Blvd	808	801	Yes	Heavy	\$498	\$1,071,000	\$1,500,000
4	Crocker & Aellonar	Replace or rehabilitate manholes due to hydrogen sulfide deterioration	10 Manholes	—	—	Crocker	Sinax to easement to Aellonar	819	811	No	Moderate	\$37,480	\$374,800	\$525,000
Total Length 23														
5	14th: Sinax to Pine	Consolidate multiple sewer mains Consolidate multiple sewer mains Abandon existing sewer main and tie-over to new sewer main	850 750 350	6 & 8 6 8	8 8 —	14th Easement 14th	Sinax Street to Junipero Ave Junipero Ave to Pine Ave Gibson Street to Junipero Ave	284 253 258	253 251 242	No No No	Moderate Moderate Moderate	\$441 \$437 —	\$375,000 \$328,000 \$30,000	\$525,000 \$460,000 \$42,000
Total Length 1,950														
6	Hillcrest	Replace sewer mains due to root intrusion	2,950 1,300	6 6	8 8	Multiple Easement	Hillcrest Avenue to Sunset Avenue from Forest Ave to Congress Ave Sunset & Forest Ave to 19th Street & Marino Pines Road	377 & S965 372	642 386	No No	Moderate Moderate	\$412 \$462	\$1,216,000 \$587,000	\$1,703,000 \$822,000
Total Length 4,250														
7	14th: Lighthouse to Central	Consolidate multiple sewer mains	600	6 & 10	12	14th	Lighthouse Ave to Central Ave	239	1,058	No	Heavy	\$533	\$320,000	\$448,000
8	Carmel	Replace sewer main to eliminate sag	1,900	6 & 8	8	Camel	Junipero Ave to Ricketts Row	E219	214	No	Heavy	\$415	\$788,000	\$1,104,000
9	Hwy 68	Protect exposed pipe from damage	400	6	—	Hwy 68	Between Audubon Lane & Bishop Ave	1830	629	No	Heavy	—	\$42,000	\$59,000
													TOTAL NEAR TERM PROJECT COSTS	
													\$13,937,000	

* If noted "Yes", then the proposed project has existing deficiencies. In addition, upgrades are necessary for future development. The proposed pipe diameter noted in this Table is to meet the capacity needs of future development.

**Total includes construction cost plus preliminary engineering, design engineering, administration construction management and inspection costs. Construction costs were developed based on engineering judgment, confirmed bid prices for similar work in the Central Coast area, consultation with vendors and contractors, established budgetary unit prices for the work, and other reliable sources.

APPENDIX B: PACIFIC GROVE PUBLIC EDUCATION ADVERTISEMENTS



Don't Flush Trouble!

Disposable wipes and other products are clogging our sewer lines and damaging pumps and other equipment.



Not only are these problems expensive to fix, they can also cause raw sewage overflows into homes, businesses and the Monterey Bay National Marine Sanctuary.

So, think trash, not toilets!

These belong in the TRASH:

- Cleaning Wipes • Grease • Condoms • Disposable Diapers
- Nursing Pads & Baby Wipes • Hair Facial Wipes
- Tampons & Pads • Dental Floss

To learn more, visit ClogBusters.org or call 831-648-5722
Funded by the City of Pacific Grove





*Cleaning Towelettes
Personal Care Wipes
Baby Wipes*

Protect The Monterey Bay

Wipes are now the leading cause of sewage line blockages in the City of Pacific Grove. Even "flushable" wipes do not dissolve readily. They collect in the lines, which leads to sewage overflows into the Monterey Bay National Marine Sanctuary.

"WIPES" are Not Flushable



Please discard wipes in the trash to avoid sewage overflows.

Wipes are a drain on our city's valuable resources.

Funded by the City of Pacific Grove • Information, call 831-648-5722

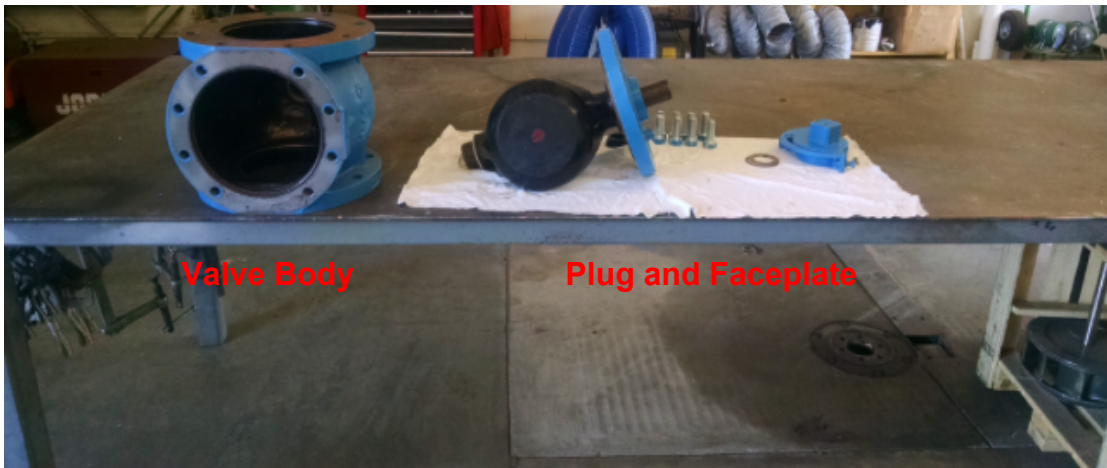
Appendix C: Pictures of Pump Station 13 on Fountain Ave





Plug Valve
at Pump #2

DANGER
THIS MACHINE
STARTS
AUTOMATICALLY



Valve Body

Plug and Faceplate



Valve Body

Face Plate



Valve Body

Valve Plug

Face Plate

STRIVING FOR SUSTAINABILITY

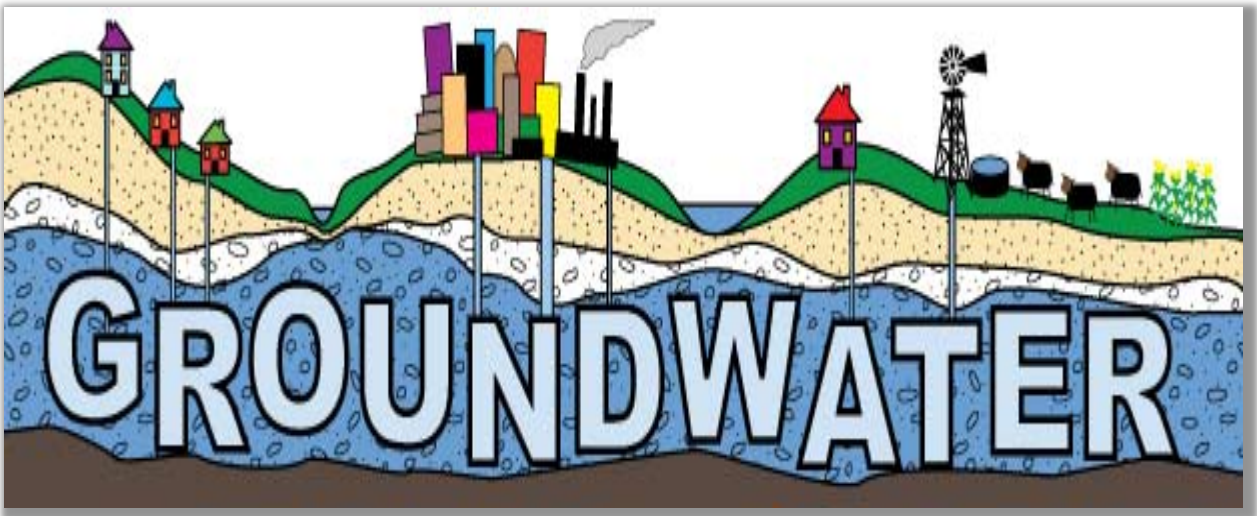


Image Courtesy of Texas Water Development Board. [HTTP://www.twdb.texas.gov](http://www.twdb.texas.gov)

STRIVING FOR SUSTAINABILITY

SUMMARY

Monterey County is critically dependent on groundwater for both its agricultural and urban water demands. “An estimated 95 percent of all water used in Monterey County is derived from groundwater wells. With nearly 200,000 acres of land under cultivation in the Salinas Valley, agricultural pumping exceeds 495,000 acre-feet per year.”¹

Combined with urban and other uses, total groundwater pumped in the Salinas Valley is approximately 520,000 acre-feet per year.”² Groundwater wells pump water from underground aquifers.³ Many of those aquifers are now experiencing “overdrafting”, a condition where more water is pumped out of an aquifer than is returned to the aquifer on an average yearly basis. In aquifers located adjacent to coastal waters, overdrafting can allow seawater to intrude into the aquifer, resulting in salt-contaminated groundwater that is unsuitable for both urban and agricultural uses.

Groundwater is critical not only because of its limited availability. It’s also critical to the economy of Monterey County, which depends heavily on its agricultural industry.

“Monterey County is recognized as the Salad Bowl of the World. Its temperate climate, rich soils, and unparalleled infrastructure support system make this the ideal growing area for cool season vegetables, wine grapes, strawberries and flowers. The County is also the home of the packaged salad and pre-cut fresh vegetables, representing 90% market share of the fresh vegetable value added industry. Because the agriculture here is year round and highly labor intensive, Monterey County has the State’s highest agricultural payroll at \$408.6 million, comprising 9.5% of the State of California’s \$4.3 billion agricultural payroll”.⁴

¹ One Acre Foot = 325851 gallons.

² Monterey County Legislative Program 2015-2016, Water Resources Sustainability, p.25. Approved by Board of Supervisors, January 13, 2015.

³ An aquifer is an underground layer of water-bearing porous rock, rock fractures or unconsolidated materials (gravel, sand, or silt) from which groundwater can be extracted using water wells. More than one aquifer may be located within a groundwater basin.

⁴ University of California, Division of Agriculture & Natural Resources. June 2005.
<http://cemonterey.ucanr.edu/about/>

LIST OF ACRONYMS

Ag	Agriculture
AMBAG	Association of Monterey Bay Area Governments
ARP	Arundo Removal Project
ASR	Aquifer Storage and Recovery
AWT	Advanced Water Treatment Plant
CASGEM	California Statewide Groundwater Elevation Monitoring program
CAWD	Carmel Area Wastewater District
CCR	California Code of Regulations
CPUC	California Public Utilities Commission
CSIP	Castroville Seawater Intrusion Project
DWD	DeepWater Desal
DWR	Department of Water Resources
EIR	Environmental Impact Report
FORA	Fort Ord Reuse Authority
GMA	Groundwater Management Act
GAMA	Groundwater Ambient Monitoring and Assessment
GEMS	Groundwater Extractions Monitoring System
GMCIRWMP	Greater Monterey County Integrated Regional Water Management Plan
GMP	Groundwater Management Plan
GSA	Groundwater Sustainability Agency
GSP	Groundwater Sustainability Plan
GWR	Groundwater Replenishment
IRWM	Integrated Regional Water Management
IRWMP	Integrated Regional Groundwater Management Plan
MBNMS	Monterey Bay National Marine Sanctuary
MCGMP	Monterey County Groundwater Management Plan
MCWMD	Marina Coast Water Management District
MCWRA	Monterey County Water Resources Agency
MPWMD	Monterey Peninsula Water Management District
MPWSP	Monterey Peninsula Water Supply Project
MRWMD	Monterey Regional Wastewater Management District
MRWPCA	Monterey Regional Water Pollution Control Agency
PG&E	Pacific Gas & Electric
PMLWDP	People's Moss Landing Water Desalination Project
PWMGRP	Pure Water Monterey Groundwater Replenishment Project
RCDMC	Resource Conservation District of Monterey County
RO	Reverse Osmosis
RTP	Regional Treatment Plant
SGB	Seaside Groundwater Basin
SGMA	Sustainable Groundwater Management Act
SGWB	Seaside Ground Water Basin
SGWBSA	Salinas Groundwater Basin Sustainability Agency
SRDF	Salinas River Diversion Facility
SVGB	Salinas Valley Groundwater Basin
SWRCB	State Water Resources Control Board

Because of its importance to Monterey County, the focus of this report is on groundwater management with special emphasis on the recently enacted Sustainable Groundwater Management Act (SGMA). We begin with a brief discussion of groundwater, its characteristics, groundwater rights, groundwater basins, and the specific groundwater basins located within Monterey County. Next, the concept of groundwater management is discussed, including a brief review of selected early groundwater legislation and local responses. We then review SGMA in some detail. Its key elements are presented and explored, followed by a discussion of SGMA's specific application to Monterey County basins and the status of preliminary steps taken to comply with its provisions. Finally, we explore local existing and proposed groundwater related projects that logically appear to be candidates for inclusion as components of local SGMA Groundwater Management Plans (GWMP).

INVESTIGATIVE METHODOLOGY

During the course of this investigation Jury members interviewed nineteen (19) high level officials and individuals whose work or position in the community is directly involved with one or more water- or wastewater-related issues. The Sustainable Groundwater Management Act of 2014 (as amended and codified) and certain of its predecessor enactments were studied, along with a variety of other legal sources including, among others, state and local agency orders, court decisions, adjudication documents, water rights law, legal definitions, and state mandated groundwater related program components. With respect to more technical matters we reviewed local project documentation for a number of existing and planned projects that are having, or will have, a direct impact on groundwater sustainability, and which might logically be incorporated into a Groundwater Sustainability Plan (GSP). In addition, the investigation included the reading of newspaper articles, website information, white papers, groundwater basin studies, and other technical source materials.

BACKGROUND

A. THE ORIGIN OF GROUNDWATER

Groundwater is water located beneath the land's surface, filling pore spaces between subsurface deposits of sand, clay, gravel, silt or other such materials. These porous deposits (known as aquifers) were left behind in geologic time as a form of sediment deposited by ancient sources of running water. Aquifers are found not only in the beds of ancient streams and rivers; they are also found in the floodplains and deltas of the ancient running waters.

Groundwater is part of the earth's hydrologic cycle. Water evaporates from surface waters (oceans, lakes, rivers, etc.) and from the small pores of plants (transpiration). Once in the atmosphere the vapor can condense into rain, snow or sleet and fall onto land. There, it runs off into rivers and streams or soaks into the earth. Part of the surface water penetrates deep into the earth, recharging groundwater aquifers. Once in an aquifer, groundwater can remain there for extended periods of time or it can be pumped to the land's surface and used for crop irrigation, drinking water and other purposes. **Figure 1** is a depiction of earth's continuous water cycle, scientifically termed the hydrologic cycle.

B. ACQUIRING THE RIGHT TO EXTRACT AND USE GROUNDWATER

In 1914, California created a system for acquiring surface water rights through a state regulated permitting process,⁵ but no such process was created with respect to groundwater. Although they are treated differently in the law, groundwater and surface water are so closely interconnected in the hydrologic cycle that the use of one resource will generally affect the other. Nevertheless, prior to the recent passage SGMA, California was one of only two states, and the only state in the western United States, that did not regulate groundwater rights. Groundwater rights in California are legally acquired as "overlying rights", "appropriative rights", "prescriptive rights" or "adjudicated rights".

⁵ California Statutes 1913, chapter 586.

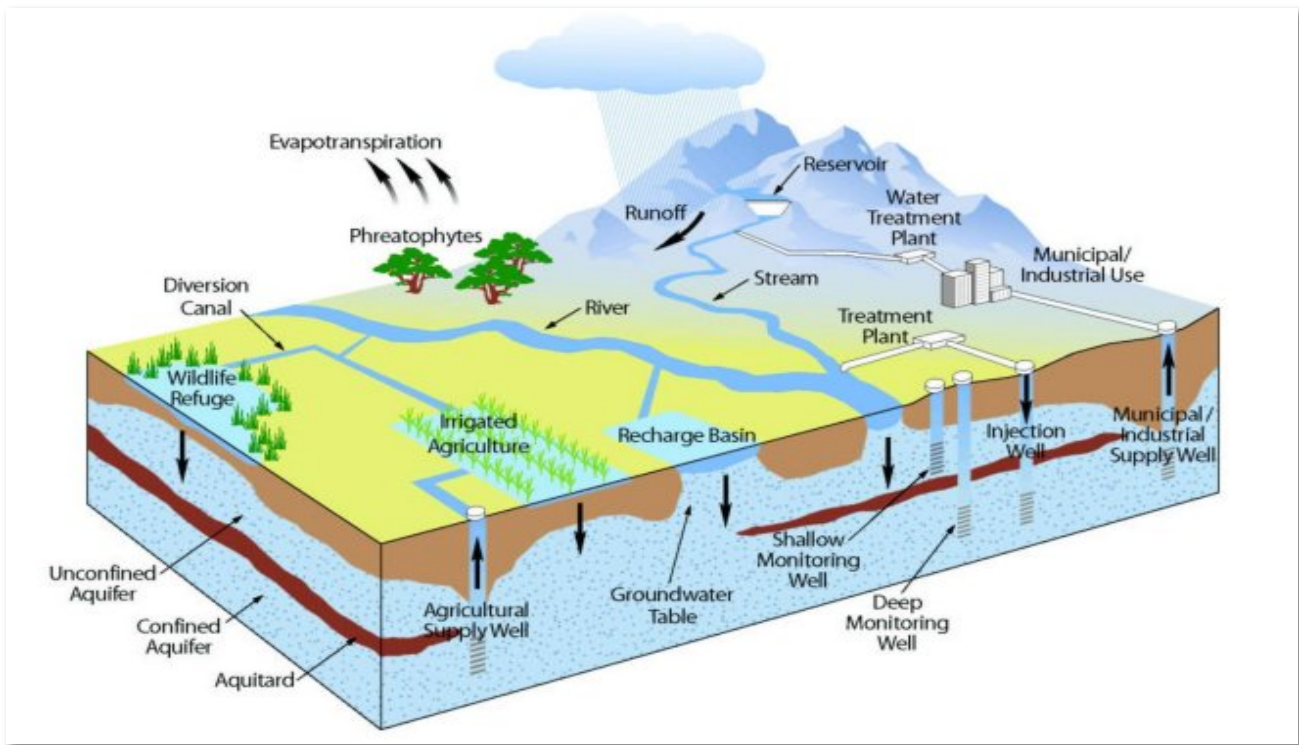


FIGURE 1

GROUNDWATER AND THE EARTH'S WATER CYCLE⁶

⁶ California Department of Water Resources, Groundwater Information Center, Hydrologic Cycle. http://water.ca.gov/groundwater/groundwater_basics/hydrocycle.cfm, April 2016.

1. Overlying Rights

An overlying right allows landowners to use groundwater from basins located under their land. The extracted groundwater may only be used by the landowner on land that overlies the aquifer from which the water is extracted. The groundwater may not be transferred or used on any other property. The holder of an overlying right shares the aquifer's water resources, and may put an unspecified amount of groundwater to use so long as the use is reasonable, beneficial and not harmful to fellow right holders.

2. Appropriative Rights

Someone who extracts groundwater for use on non-overlying land may obtain an appropriative right to that groundwater. The right is acquired by the first person to take a specific quantity of water from a groundwater source for a "beneficial use", whether agricultural, industrial or household. The right continues so long as the water continues to be used for the same purpose. The amount allowed is sometimes defined by the pattern of use at the time the water was first taken.

Disputes sometimes arise between overlying landowners and someone claiming appropriative rights to the same water. That appears to have been the case recently when California American Water Company (Cal-Am) claimed the right to extract unspecified amounts of brackish groundwater from a Salinas Valley Basin aquifer. The extraction was reported to be an unavoidable result of the operating Cal-Am's planned desalination plant seawater intake wells.⁷ Those with overlying groundwater rights argued that Cal-Am did not have the legal right to appropriate and export groundwater from the Salinas Valley Basin for use in another basin. Cal-Am countered that it could appropriate the water since it was brackish water, unsuitable for drinking or irrigation, and as a result it was no longer being put to a "beneficial use." That disagreement was ultimately resolved by a negotiated agreement between the parties.⁸

⁷ Cal-Am's desalination plant plans are discussed more fully later in this report.

⁸ Johnson, Jim. "Cal-Am, Castroville, others reach deal on desal 'return' water." *Monterey Herald*, 1/12/2016.

3. Prescriptive Rights

If someone wrongfully takes water from a groundwater source for a period of five years, all the while claiming the right to do so, it's possible for that person to eventually acquire a legal right to the water. During the five-year period, the person must take the water openly, while obviously encroaching on the rights of another. For groundwater, taking water from an overdrafted⁹ aquifer might be an example of adverse use that could become a prescriptive right to water from that aquifer.

4. Adjudicated Rights

Adjudication is a judicial process by which parties with competing claims to groundwater extraction rights can have a judge determine the extent of each party's right. For example, a portion of the Seaside Basin was adjudicated in 2006, during which the court determined the extraction rights of several overlying landowners.

C. GROUNDWATER BASINS

The primary concern of this report is groundwater management. Groundwater management refers to the planned and coordinated monitoring, operation, and administration of a groundwater basin or portion of a groundwater basin with the goal of long-term sustainability of the resource. A "groundwater basin" is defined as an area underlain by porous materials capable of furnishing a significant supply of groundwater to wells, or storing a significant amount of water, generally in one or more aquifers. A groundwater basin is three-dimensional and includes both the surface extent and all of the subsurface fresh-water-yielding material.

D. GROUNDWATER BASINS IN MONTEREY COUNTY AND BASIN PRIORITIES

In 1975 the California Department of Water Resources (DWR) published Bulletin 118, which was most recently updated in 2003.¹⁰ Prior to its publication, the state legislature

⁹ The condition of a groundwater basin in which the amount of water withdrawn by pumping exceeds the amount of water that recharges the basin over a period of years.

¹⁰ State of California, Department of Water Resources. California's Ground Water Bulletin 118, 1975. Bulletin 118-75 contained a summary of technical information for 248 of the 461 identified groundwater

directed DWR to inventory all groundwater basins in the state, determine their boundaries, and collect all known technical information regarding each. A later legislative enactment directed DWR to prioritize each identified basin based upon their relative “health” and importance as a viable groundwater resource. This was accomplished as part of DWR’s California Statewide Groundwater Elevation Monitoring (CASGEM) Program. The prioritization was intended to help identify, evaluate, and determine the need for additional groundwater level monitoring. CASGEM priority levels¹¹ were assigned based upon the following eight criteria:

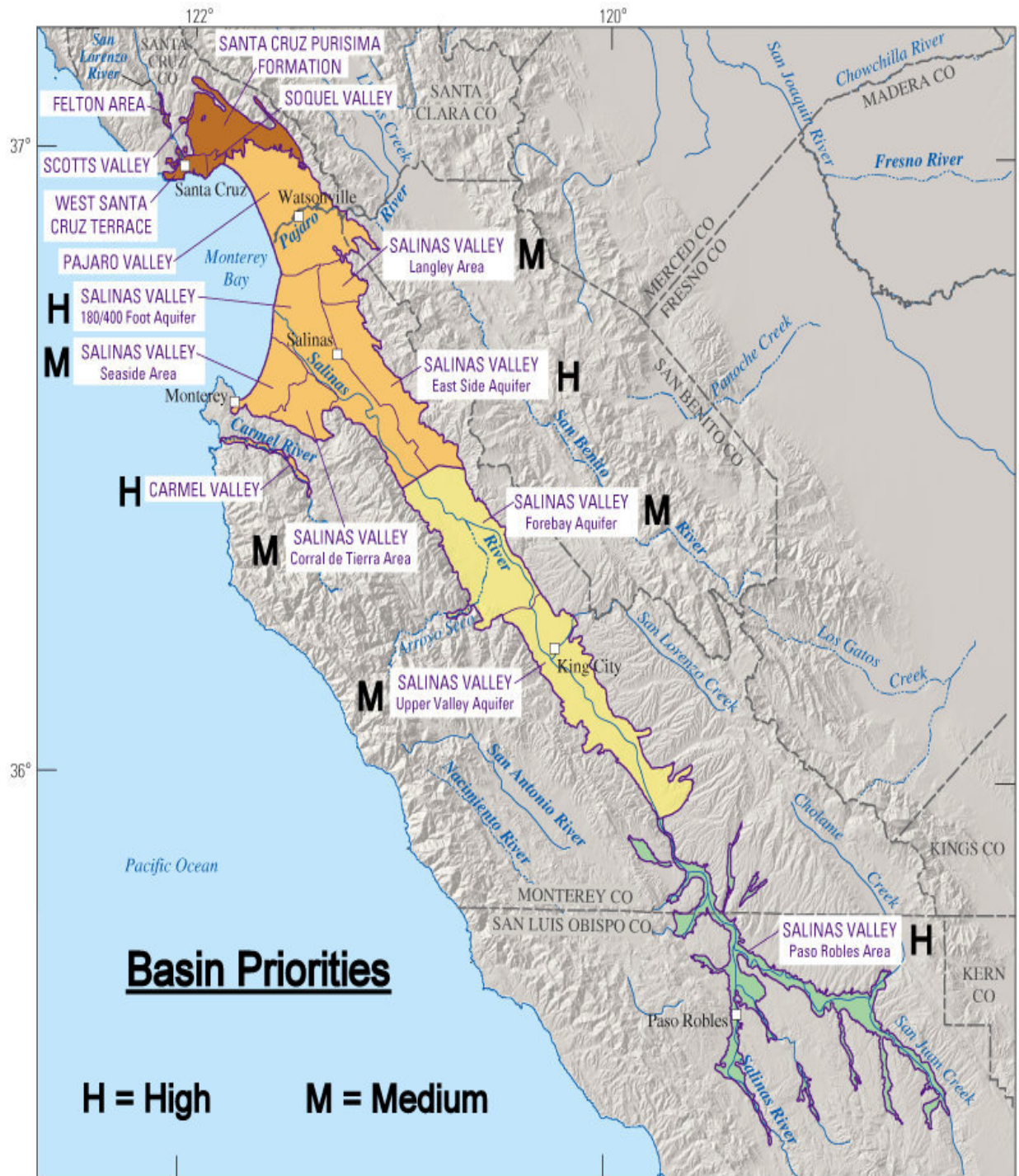
- Overlying population;
 - Projected growth of overlying population;
 - Public supply wells;
 - Total wells;
 - Overlying irrigated acreage;
 - Reliance on groundwater as the primary source of water;
 - Impacts on the groundwater; including overdraft, subsidence, saline intrusion, and other water quality degradation; and
 - Any other information determined to be relevant by the Department.
- **FIGURE 2** depicts Monterey County’s basin and subbasin boundaries as developed in Bulletin 118.¹² The basin map¹³ is annotated to show those basins and subbasins within Monterey County that are classified as medium or high priority. Note that Carmel Valley is included as a high priority groundwater basin. However, the designation of Carmel Valley as a “groundwater basin” has been questioned, with significant consequences, as will be discussed later in this report.

basins, subbasins and what were referred to as “areas of potential ground water storage” in California. The number of identified basins has since grown to 515.

¹¹ CASGEM classified basins as high, medium, low or very low priority.

¹² Note that FIGURE 2 depicts the “Seaside Area” to be a subbasin of the Salinas Valley Basin (orange). The same area is sometimes referred to as the “Seaside Basin” or as the Adjudicated Seaside Groundwater Basin”. These terms appear to be used interchangeably by those involved with groundwater, but we will refer to the area as simply the “Seaside Basin” to lessen reader confusion.

¹³ U.S. GEOLOGICAL SURVEY Data Series 258. See Figure 2.
<http://pubs.usgs.gov/ds/2007/258/figure2.html>. April 2016.



Base from U.S. Geological Survey National Elevation Dataset, 2006, Albers Equal-Area Conic Projection

FIGURE 2
EXPLANATION

0 20 40 MILES
0 20 40 KILOMETERS

THE CONCEPT OF GROUNDWATER MANAGEMENT

Groundwater management refers to the planned and coordinated monitoring, operation, and administration of a groundwater basin or portion of a groundwater basin with the goal of long-term sustainability of the resource. In past years the state's approach to groundwater management was cautious. Given the nature of water rights in California, any attempt by the state to regulate groundwater was met with strong resistance. Nevertheless, there have been several attempts to find an effective groundwater management solution that would ensure groundwater sustainability. A few predecessors of the 2014-2015 Sustainable Groundwater Management Act (SGMA) are discussed below.

A. THE 1992 GROUNDWATER MANAGEMENT ACT

In 1992 the California legislature passed assembly bill AB 3030, entitled the Groundwater Management Act.¹⁴ That act allowed and encouraged certain defined existing local agencies to develop a groundwater management plan (GMP) for those groundwater basins listed in Department of Water Resources Bulletin 118. Such plans, however, were not required. Then in 2002, the Legislature passed senate bill SB 1938. That bill required local agencies to develop and adopt a GMP, but only if the agency wanted certain financial assistance.

A search of available records suggests that no GMP was developed and enacted anywhere within Monterey County until 2006. At that time the Monterey County Water Resources Agency (MCWRA) prepared the *Monterey County Groundwater Management Plan*,¹⁵ said to be in accordance with the requirements of the 1992 Groundwater Management Act. According to the plan adoption resolution,¹⁶ the plan formalized the management activities currently being conducted in the Salinas Valley Groundwater Basin.

¹⁴ Codified as California Water Code, Section 10750 et seq. Part 2.75.

¹⁵ Monterey County Water Resources Agency, Monterey County Groundwater Management Plan, May 2006.

¹⁶ Monterey County Water Resources Agency Resolution 06-R04, May 22, 2006.

B. INTEGRATED REGIONAL WATER MANAGEMENT PLANS (IRWMP)

Between 2002 and 2006 California voters passed Propositions 50, 84, and 1E, which in total made over \$5 billion in financial assistance available for various water related programs. A significant amount of funding from those sources required that recipients develop and implement Integrated Regional Water Management Plans (IRWMP). An IRWMP was defined as a comprehensive planning document to be prepared collaboratively by water management entities and stakeholders¹⁷ within a region. The plan was required to identify priority water resource projects and integrate regional planning efforts into a single plan.

Two IRWMPs were subsequently developed for Monterey County: the *Monterey Peninsula, Carmel Bay and South Monterey Bay IRWMP* (November 2007, updated June 2014) and the *Salinas Valley IRWM Functionally Equivalent Plan* (updated, May 2006). In April 2013 the Salinas Valley plan became what is now the *Greater Monterey County Integrated Regional Water Management Plan* (GMCIRWMP).¹⁸ While the scope of both IRWMPs includes groundwater planning, the plans are directed toward all water related issues. The goal was integrated long-term water planning. Some of the projects mentioned later in this report were funded by IRWMP resources.

C. SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA)

In September 2014, the California Legislature passed a series of three bills, which taken together constitute the Sustainable Groundwater Management Act. SGMA, as amended in 2015, is intended to provide a comprehensive framework for the sustainable management of groundwater by local (as opposed to state) authorities. However, there is the potential for state intervention if local authorities do not act as required by SGMA, and the state deems its intervention necessary to properly protect local groundwater resources. The key provisions of SGMA will now be summarized.

¹⁷ “Stakeholders” are those individuals, groups, or organizations in the community that have a special interest in decisions relating to water or its uses.

¹⁸ While the name of GMCIRWMP suggests that it deals with all of Monterey County, it specifically excludes the Monterey Peninsula, Carmel Bay, and South Monterey Bay IRWM region.

SGMA requires the formation of a local Groundwater Sustainability Agency (GSA) for each groundwater basin within its jurisdiction, subject to certain exceptions. The GSA is responsible for eventually developing and implementing a local Groundwater Sustainability Plan (GSP) for each of its basins. The GSA can be a local public agency that has water supply, water management, or land use responsibilities within the basin area. Alternatively, it may be a combination of local agencies using a joint powers agreement, memorandum of agreement, or other legal document. If there is an area overlying a groundwater basin that is not in the management area of a GSA, the local county is presumed to be the basin GSA unless it opts out of that responsibility.

Originally, only local agencies could form, be part of, or participate in a GSA, but by a 2015 amendment to the Act, a water corporation such as California American Water Company (Cal-Am) or a mutual water company may participate in a GSA through legal agreement. While a private water entity can be part of a GSA, it would not have any of the powers conferred by SGMA on a GSA.

The SGMA includes various milestones that must be met, including among others the following critical deadlines:

- June 30, 2017: Deadline for forming GSAs.
- January 31, 2020: GSPs must be adopted for “critically overdrafted”¹⁹ basins.
- January 31, 2022: GSPs must be adopted for high and medium priority basins²⁰ not currently in overdraft.
- 20 years after adoption: All high and medium priority groundwater basins must achieve “sustainability”.

¹⁹ The term “critically overdrafted” has the meaning specified in SGMA and will be provided later in this report.

²⁰ California Water Code section 10720.7 subsection (b) provides that basins designated as low or very low priority are legislatively encouraged and authorized to be managed by SGMA, but that state intervention would not be an available penalty for such basins. No deadlines are mentioned.

DWR is the named state agency responsible for setting the priority levels for all basins within the state, adopting regulations for basin boundary adjustments where appropriate, adopting regulations for evaluating the adequacy of GSPs and GSA agreements, publishing a report estimating water available for groundwater replenishment, and publishing “best management” practices for achieving groundwater sustainability. The DWR is also required to periodically evaluate GSPs to see if they meet SGMA requirements and are likely to achieve sustainability. SGMA specifies those requirements that must be met for a GSP to be found compliant with the Act. The California State Water Resources Control Board (SWRCB) has the authority to intervene if a GSA is not formed, or if it fails to adopt a legally sufficient plan by the stated deadlines.

Perhaps most significant, SGMA gives each GSA significant new local powers to:

- Conduct investigations to carry out the Act’s requirements.
- Require the registration of groundwater wells.
- Require the installation of water volume measuring devices on all groundwater wells at the owner’s expense.
- Control groundwater extractions by limiting, suspending or otherwise regulating extractions from individual groundwater wells.
- Assess fees to establish and implement local GWMPs.

Notably, SGMA specifically states that it does not determine or alter “surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.”²¹

²¹ California Water Code, Section 10720.5 subsection (b).

D. IMPORTANT SGMA DEFINITIONS

1. Groundwater

SGMA defines “Groundwater” in a manner that, on its face, is somewhat unclear to those not versed in water law. For purposes of SGMA, “Groundwater” means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.”²² The significance of this definition’s exclusionary language will be explored later in this report.

2. The Concept of Sustainable Groundwater Management

SGMA defines “Sustainable Groundwater Management” to mean the management and use of groundwater sources by a GSA in a manner that can be maintained for at least 50 years without causing “undesirable results” and without exceeding the “sustainable yield” of the groundwater sources. This definition is better understood by looking at SGMA’s definitions of “undesirable results” and “sustainable yield”.²³ It seems logical, however, that effective groundwater management must also consider surface water supplies and uses, since the use of one resource will often affect the other.

3. Sustainable Yield

“Sustainable Yield” is defined as the maximum quantity of water, calculated over a period of time representative of long-term conditions in the basin, including any temporary surplus, which can be withdrawn each year from a groundwater source without causing any undesirable results.

4. Undesirable Results

“Undesirable Results”²⁴ as defined by SGMA means any of the following effects caused by basin groundwater conditions:

²² California Water Code, Section 10721 subsection (g).

²³ California Water Code, Sections 10721 subsection (x) and 10721 subsection (w).

²⁴ California Water Code, Section 10721 subsection (x).

- Chronic lowering of groundwater levels, but excluding reductions in groundwater levels during a drought if they are offset by increases in groundwater levels during other periods;
- Significant and unreasonable reductions in groundwater storage;
- Significant and unreasonable seawater intrusion;
- Significant and unreasonable degradation of water quality;
- Significant and unreasonable land subsidence; and
- Surface water depletions that have significant and unreasonable adverse impacts on beneficial uses.

5. The Sustainability Goal

The "Sustainability Goal" of SGMA is to create for each basin "one or more groundwater sustainability plans that achieve sustainable groundwater management by identifying and causing the implementation of measures targeted to ensure that the applicable basin is operated within its sustainable yield."²⁵

6. Critical Basin Overdraft

The focus of SGMA is on individual groundwater basins²⁶ and on preventing each basin from reaching a critical overdraft condition due to long term groundwater mismanagement or lack of sound planning. Groundwater overdraft is "The condition of a groundwater basin in which the amount of water withdrawn by pumping exceeds the amount of water that recharges the basin over a period of years..."²⁷ A basin is susceptible to critical overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.²⁸ Conditions of critical overdraft can result in seawater

²⁵ California Water Code, Section 10721 subsection (u).

²⁶ A groundwater basin is an underground reserve of water which may take the form of a single aquifer or a group of linked aquifers.

²⁷ California Department of Water Resources, Groundwater Bulletin 118, Update 2003, Glossary p.214.

²⁸ California Department of Water Resources, Groundwater Bulletin 118, Update 2003, p.98.

intrusion, land subsidence, groundwater depletion, and/or the chronic lowering of groundwater levels.

To avoid confusion, it is important to distinguish between the terms “critical overdraft” (as used, for example, to set one of the SGMA compliance deadlines) and “high priority” (as used in Bulletin 118). These are different concepts and depend on different factors as can be seen by comparing the above definition with the CASGEM basin priority-setting criteria set forth in Section III.D of this report. Overdraft is but one of eight criteria used in the Bulletin 118 studies to determine the priority level of a groundwater basin.

Currently, there are twenty-one (21) groundwater basins in California that have been designated as being in Critical Overdraft and, therefore, subject to the earlier GSP adoption deadline. Two of those twenty-one (21) “Critically Overdrafted Basins” are Salinas Valley subbasins: the 180/400-Foot Aquifer and the Paso Robles subbasin. In reality, however, it could also logically be argued that the Carmel Valley Basin is in the equivalent of overdraft as evidenced by the fact that Cal-Am is under order of the PUC to reduce its extraction of groundwater by over 70%. The PUC pointed out that “There continues to be an annual drawdown or drying of the Carmel River in the area upstream of the Highway 1 bridge. Because Cal-Am is the largest diverter of water on the river, this drawdown of the river is attributable, at least in part, to Cal-Am’s illegal diversions from the Carmel River. Cal-Am’s pumping from the subterranean stream contributes to the reduction of surface flow.”²⁹

The same is true of the Seaside Basin as evidenced by the fact that the Superior Court that adjudicated the water rights for that basin ordered the reduction of overall pumping from that basin and found that “...groundwater production has exceeded the Natural

²⁹ State of California, Department of Water Resources. Cease and Desist Order WR 2008–00XX-DWR, p.2, Finding 8.

Safe Yield during the preceding five (5) years throughout the Seaside Basin and in each of its subareas.³⁰

7. Exemptions from SGMA Compliance

SGMA specifies two conditions that can exempt a basin from required compliance with its provisions. The first exemption is for groundwater basins that have had the competing groundwater rights of co-users adjudicated.³¹ The second exemption is for basin aquifers having below surface “water that flows in known and definite channels”.³²

Although SGMA does not directly attempt to control adjudicated basins, a 2015 amendment to the act added section 10737.8, which forbids judges in future adjudication proceedings from entering a judgment involving any basin required by SGMA to otherwise prepare a GSP, unless the court first finds that the judgment will not substantially impair the ability of a GSA or related officials to comply with the requirements of SGMA, and to achieve sustainable groundwater management.

8. SGMA Provision for Basin Boundary Adjustments

SGMA directs GSAs to use the boundary and priority classifications listed in DWR Bulletin 118 (2003) for GWMP development. Although the principal reliance is on Bulletin 118 boundary descriptions, SGMA allows local agencies to request a DWR modification of a Bulletin 118 basin boundary to adjust the spatial locations of a high or medium priority groundwater basin to more accurately correspond with waterways, county lines, agency boundaries, or known geologic boundaries.³³

As previously mentioned, a portion of the Seaside Basin has been adjudicated. As a result, a basin boundary modification has been requested by the Monterey Peninsula Water Management District (MPWMD) to create an independent basin named the

³⁰ Cal-Am vs. City of Seaside, et al., Superior Court of California, County of Monterey. Case No. M66343. Decision filed Mar. 27, 2006, p. 8-9, Finding 2.

³¹ California Water Code, section 10720.8.

³² California Water Code 10721 subsection (g).

³³ California Water Code 10722.2.

“Adjudicated Seaside Groundwater Basin”. Doing so would appear to require altering the boundaries of two subbasins: the current Seaside and Corral De Tierra area subbasins. The stated purpose of the proposed modification is to adjust the boundary of the proposed Adjudicated Seaside Groundwater Basin to match that portion of the existing Seaside subbasin over which the Superior Court has exercised “adjudication” authority.

GSP EMERGENCY REGULATIONS

SGMA became effective on January 1, 2015. DWR is charged with reviewing local GSPs for SGMA compliance. Therefore, on February 18, 2016 DWR released draft emergency regulations applicable to local GSPs for public comment. On May 10, 2016 DRW released its proposed final version of the GSP Emergency Regulations.³⁴ These regulations are intended to specify how DWR will evaluate GSPs.³⁵ They include the process, methodology, and criteria for evaluating the development and implementation of GSPs, alternatives, and coordination agreements. DWR’s proposed final version was presented to the California Water Commission for consideration and adopted on May 18, 2016.³⁶

STATUS OF LOCAL BASIN GSA FORMATION

Any local agency or combination of local agencies overlying a groundwater basin may become a GSA for that basin unless a local agency exists that already has groundwater responsibility.

A. SEASIDE BASIN

The Seaside Basin is designated as a “medium priority” basin within the meaning of DWR Bulletin 118. However, much of the Seaside Basin has been adjudicated and is, therefore, excluded from SGMA’s requirements to form a GSA and to implement a GSP.

³⁴ DRW SGMA subscription list email dated May 10, 2016.

³⁵ SGMA requires DWR to adopt final regulations by June 1, 2016.

³⁶ The final Emergency Regulations can be found at <http://water.ca.gov/groundwater/sgm/gsp.cfm>

Nevertheless, there remains a portion of the basin that was not adjudicated and will presumably remain within SGMA's jurisdiction.

In February 2016, the MPWMD filed a request with DWR to have the Seaside area basin (or subbasin) boundary adjusted so that it would only include that area of the Seaside Basin that has been adjudicated. The adjudicated area would be called the Adjudicated Seaside Groundwater Basin.

MPWMD was designated by SGMA to be the exclusive GSA³⁷ for all basins within the District's jurisdiction (except for the adjudicated area) unless it opts out of that responsibility.³⁸ Part of the Seaside area does lie within the District's jurisdictional boundary, but the District has resolved to "...opt out of being the exclusive groundwater management agency for that area north of the adjudicated Seaside Groundwater Basin that is within the MPWMD statutory boundaries..."³⁹

FIGURE 3 is a regional map prepared by MPWMD that shows the recommended boundary for the Adjudicated Seaside Groundwater Basin. It also shows the two remaining areas of the basin that would remain after the requested boundary adjustment. The District has termed these residual areas the Salinas Valley Marina Area and the Salinas Valley Corral De Tierra Area. If the part of the basin not adjudicated is, in fact, a Salinas Valley subbasin, it must be included in a Salinas Valley Basin GSA's GSP. If not, then it may ultimately require a separate GSA and GSP, assuming its designation remains "medium priority".

³⁷ California Water Code section 10723 subsection (C)(1)(I).

³⁸ California Water Code section 10723 subsection (C)(2).

³⁹ Monterey Peninsula Water Management District Resolution No. 2016-01, February 3, 2016.

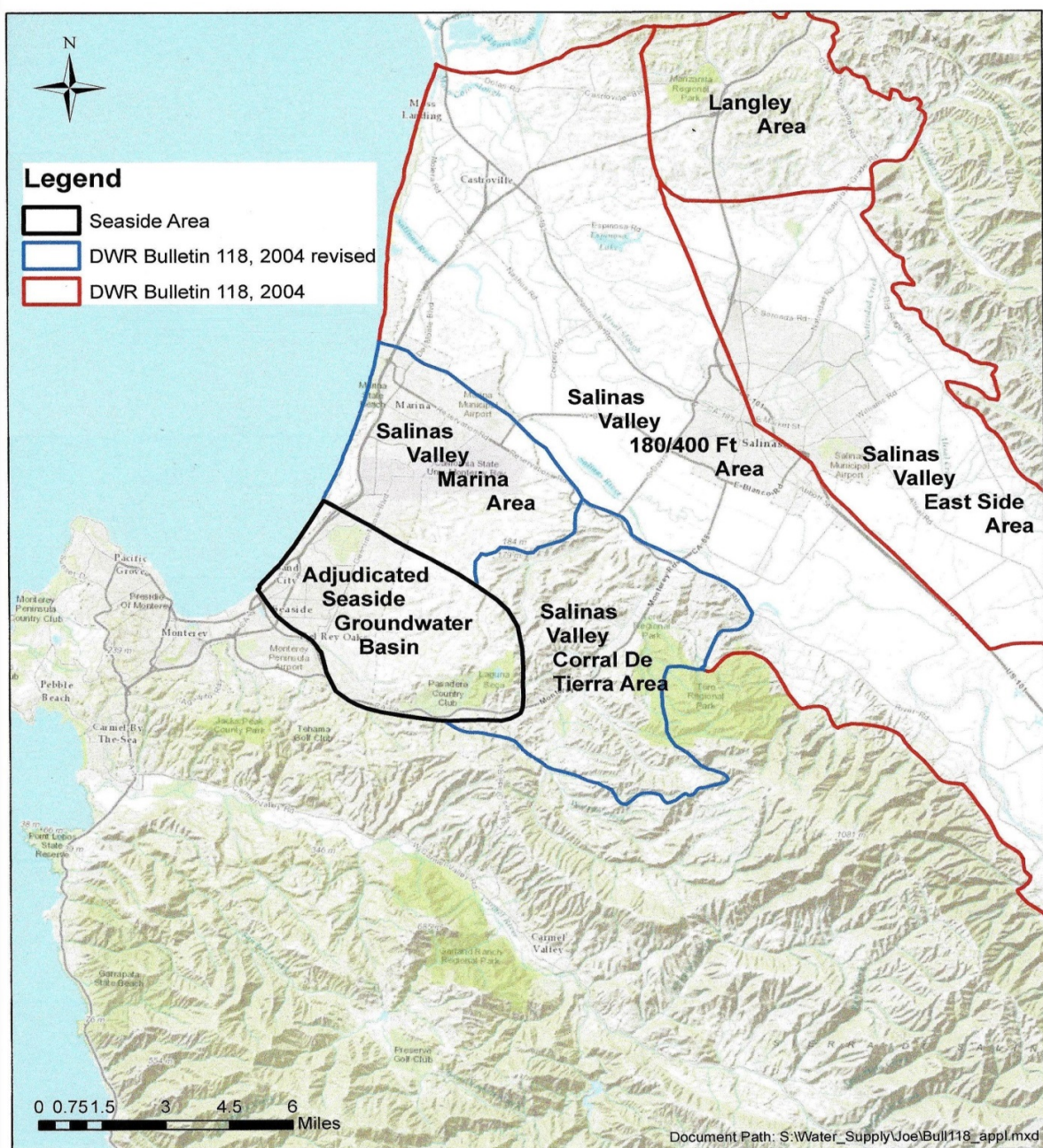


Plate 1: Regional Map showing location of Seaside Groundwater Basin Boundary



FIGURE 3

B. CARMEL VALLEY BASIN

The Carmel Valley Basin is designated as a “high priority” basin within the meaning of DWR Bulletin 118. It’s located within the jurisdictional boundaries of MPWMD, a water district that already had groundwater responsibility prior to the enactment of SGMA. For that reason, Water Code Section 10723(c) (1) specifically designated MPWMD to be the exclusive GSA for the Carmel Valley basin.

Consequently, in October 2014, MPWMD filed the required notice with DWR of the District’s intent to become the exclusive GSA for the Carmel Valley Basin (also known as the Carmel Valley Alluvial Aquifer) and to undertake its sustainable groundwater management. MPWMD confirmed that when carrying out its responsibilities under the Act, it would take into consideration the interests of all beneficial users, groundwater users and other interested parties. At the time of its notification to the DWR, MPWMD had already identified over 250 users and other interested stakeholders whose input would be considered.

More recently, MPWMD analyzed SGMA’s language and that of a 1995 SWRCB ruling regarding competing Carmel River water right claims of Cal-Am and others.⁴⁰ Based on that comparative analysis, MPWMD concluded that the Carmel Valley Basin is actually exempt from SGMA compliance requirements.⁴¹

SGMA applies only to groundwater, and SGMA’s definition of groundwater specifically excludes underground “water that flows in known and definite channels.”⁴² The ultimate result of the 1995 proceeding was that SWRCB issued its Order 95-10. In that order, the court made a finding that “Downstream of [river mile] 15 of the Carmel River, the aquifer underlying and closely paralleling the surface water course of the Carmel River is water flowing in a subterranean stream and, therefore, subject to the jurisdiction of

⁴⁰ State Water Resources Control Board Order 95-10, July 6, 1995.

⁴¹ E-mail to Civil Grand Jury from Monterey Peninsula Water Management District. March 21, 2016.

⁴² California Water Code 10721 subsection (g).

the SWRCB.”⁴³ MPWMD based its determination of SGMA inapplicability on the comparison of SGMA’s language to that of Order 95-10.

SGMA’s exclusion of underground “water that flows in known and definite channels” beneath a river seems illogical since Bulletin 118 and other technical sources state that surface water and groundwater are interconnected resources. They point out that 1) groundwater originates as surface water, 2) groundwater extraction can affect flow in streams, and 3) changes in surface water flow can affect groundwater levels. Treating underground water flows and groundwater differently for purposes of SGMA, then, creates an anomaly that may eventually need to be addressed by a SGMA amendment.

C. PAJARO VALLEY GROUNDWATER BASIN

The Pajaro Valley Basin is designated as a “high priority” basin within the meaning of DWR Bulletin 118. Like the Carmel Valley Basin, SGMA specifically designated the Pajaro Valley Water Management District as the exclusive GSA, and that entity is presumably beginning the implementation process for its required GSP.

D. SALINAS VALLEY GROUNDWATER BASIN (SVGB)

Virtually all subbasins within the Salinas Valley Basin are designated as either “high priority” or “medium priority” basin within the meaning of DWR Bulletin 118. Thus its compliance with SGMA is required.

No single agency was designated by SGMA to become the exclusive GSA for the Salinas Valley Groundwater Basin and no eligible entity has yet officially notified the DWR of its intent to become the GSA for SVGB. However, in October of 2014, MCWRA Board of Directors recommended that MCWRA become the GSA for the Salinas Valley basin, and the Monterey County Board of Supervisors recommended beginning a public process to gain input from interested members of the community. That process was initiated in December of 2014, and in January 2015, the Agency held

⁴³ State Water Resources Control Board Order 95-10, July 6, 1995.

a public meeting to inform interested parties about the need to form a GSA for the SVGB. In the weeks that followed, several other local agencies and interested parties advised DWR that they did not want a GSA comprised of just one local agency, and a number indicated that they wanted to participate directly in the GSA that was ultimately to be formed.⁴⁴

Given the lack of unanimity regarding GSA membership, and facing a specific deadline for forming a GSA that would avoid state intervention, a small group of interested parties, including the City of Salinas, hired the privately owned Consensus Building Institute (CBI) to investigate the concerns and competing groundwater related interests of potentially affected parties. That effort is currently under way. CBI anticipates that a consensus regarding GSA participation can be developed that will be satisfactory to all concerned public agencies and community stakeholders.⁴⁵ The ultimate goal of this effort is the development and implementation of a Salinas Groundwater Basin Sustainability Agency (SGBSA), which will then have the responsibility of creating and implementing a GWMP for the entire basin.

The consensus building process currently underway primarily involves two agency and stakeholder groups: the Groundwater Stakeholder Forum and the Collaborative Work Group. According to CBI's project website, "The Collaborative Work Group, in consultation with the Groundwater Stakeholder Forum, will recommend the GSA structure to the GSA eligible entities in the basin. If more than one agency chooses to participate in the GSA, each agency's governing board would adopt or approve the GSA. If the Collaborative Work Group proved unable to reach consensus on the recommended structure, each GSA-eligible agency could move forward to comply with SGMA by forming one or more GSAs and the required coordination agreements."⁴⁶ If

⁴⁴ City of Salinas, FORA, Castroville Community Service District, City of Soledad, Marina Coast Water District, California Water Service, etc.

⁴⁵ A stakeholder is an individual or organization that has an interest in water management activities. Typically, stakeholders are anyone involved in protecting, supplying, or using water for any purpose, who have a vested interest in water-related decisions.

⁴⁶ www.salinagroundwater.org

agreement is not reached by SGMA's deadline, the County of Monterey will become the GSA unless it chooses to opt out.

The Groundwater Stakeholder Forum is “designed to share information and gather public input on the GSA formation process.”⁴⁷ The Collaborative Work Group's initial membership is shown in **Appendix 1**. The meetings of the Forum and the meetings of the Work Group are open to the public. **Appendix 2** details CBI's initial findings and more fully describes the consensus building process. Given the consensus building process, it seems likely that no GSP will be forthcoming for some time.

TYPES OF ACTIVITIES THAT HAVE A POSITIVE IMPACT ON GROUNDWATER SUSTAINABILITY

Sustainability can most easily be achieved when there are adequate sources of water during successive years to fill basin aquifers with enough groundwater to meet evolving community water demands. In a county subject to periodic droughts, competing groundwater interests and appetites, and a number of independently managed water plans and projects, how can sustainability be achieved most efficiently and effectively? SGMA presents a logical framework for achieving sustainability by fostering the integration of water-related efforts on a local level. The types of local sustainability activities to be integrated and centrally managed include, among others:

- Urban and agricultural water conservation
- Creation of new sources of water
- Reclamation and reuse of existing non-potable water sources
- Effective management of river and stream flows
- Recharging depleted aquifers
- Reducing the need for agricultural groundwater pumping
- Stopping seawater intrusion into coastal aquifers
- Monitoring of groundwater elevations
- Monitoring the volume of basin extractions in relation to that of basin recharging

⁴⁷ The first Groundwater Stakeholder Forum was scheduled for May 19, 2016 from 5:30-7:30 pm.

EXISTING, PLANNED and PROPOSED PROJECTS

There are a number of water projects and programs in Monterey County that appear suitable for inclusion as components of one or more GSPs. In this section we review a number of such projects, both large and small in scope. While many of the projects benefit the Salinas Valley Basin, some benefit the Seaside Basin and/or the Carmel Valley Basin as well.

Even though the Seaside and Carmel Valley Basins appear to be excluded from the SGMA's reach, multi-basin projects are included here for three reasons: First, there is at least one earlier local area water management plan which should still be viable for purposes of groundwater sustainability. Second, SGMA strongly encourages planning coordination between adjacent basins.⁴⁸ Finally, basins that are not required to participate in SGMA planning are nevertheless encouraged to do so.

With regard to previously existing groundwater related plans, the *Monterey Peninsula, Carmel Bay and South Monterey Bay IRWMP* (November 2007, updated June 2014) has a number of objectives that closely parallel the SGMA objective of sustainability. The Monterey Peninsula Regional Water Management Group (RWMG) is the body responsible for the development and implementation of the IRWMP and includes seven local agencies and organizations.⁴⁹ The geographic coverage of this regional plan is approximately 350 square miles and includes the coastal cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, and Seaside. Also included are the unincorporated portions of Monterey County in Carmel Valley, Pebble Beach, the Carmel Highlands, the Laguna Seca area, and a portion of the Ord Community.

⁴⁸ California Water Code 10727.6.

⁴⁹ Initially, RWMG was comprised of representatives from the Big Sur Land Trust (BSLT), the City of Monterey, MCWRA, MRWPCA, and MPWMD. In 2014 MCWD and RCDMC became added participants.

The purpose of RWMG is to plan and facilitate funding for appropriate local water and environmental projects. Stated IRWMP objectives⁵⁰ include:

- Meet existing water supply replacement needs of the Carmel River system and Seaside Groundwater Basin.
- Maximize use of recycled water and other reuse opportunities, such as gray-water and storm-water capture and use.
- Seek long-term, sustainable water supplies for estimated future demand estimates.
- Optimize conjunctive use of surface and ground-water.
- Create, evaluate, and advance water conservation throughout the Region.
- Protect and improve water quality in groundwater basins.

Finally, we note that although not a component of any public agency, the agriculture industry in Salinas has strongly supported many of the projects that are discussed in the following sections of this report.

As previously suggested, there are a number of independent projects and programs in Monterey County that appear suitable for inclusion as components of one or more GSPs. In this section we review a number of such projects, both large and small in scope. Included are projects that benefit the Seaside and Carmel Valley Basins. Even though those projects are excluded from SGMA's requirements, at least one other local area water management plan remains viable.

A. WASTEWATER RECYCLING PROJECTS

Using recycled wastewater for irrigation and other purposes is intended to reduce the amount of groundwater extraction otherwise necessary for such uses.

⁵⁰ The Civil Grand Jury lacked sufficient time and resources to investigate the extent to which these plan objectives are actually being met.

1. The Salinas Valley Reclamation Plant (SVRP) and Castroville Seawater Intrusion Project (CSIP)

Long term over-pumping of Salinas Valley Basin aquifers nearest the ocean allowed seawater to intrude into those aquifers, resulting in the creation of salty, unpleasant-tasting water, unfit for either drinking or agricultural irrigation. MCWRA monitors the movement and extent of seawater intrusion by testing a series of wells located in the coastal northwestern portion of Monterey County. The degree to which seawater has intruded into basin aquifers can be seen in **FIGURES 4** and **5**.

SVRP and CSIP are a linked pair of existing projects developed to halt the inland spread of seawater into the Salinas Valley coastal aquifers by supplying overlying agricultural lands with clean irrigation water from a source other than groundwater. Project managers anticipated that providing an alternate source of irrigation water would result in a corresponding reduction in groundwater pumping, thus slowing or stopping the seawater intrusion. **FIGURE 4** and **FIGURE 5**, below, provide evidence that this program seems to be working.

For SVRP and CSIP, the alternate source of the irrigation water is currently urban wastewater from local municipalities that has been treated at the Monterey Regional Wastewater Treatment facility in Marina and its component Salinas Valley Reclamation Plant (SVRP), where the wastewater is treated to “tertiary” levels. The tertiary recycled water is tested to assure that it meets state standards for unrestricted use on freshly edible food crops.⁵¹ From the reclamation plant, the recycled water is distributed for irrigation use to 12,000 acres of farmland in northern Monterey County by means of the CSIP “purple pipeline” system. The system consists of 45 miles of pipeline and 22 supplemental wells. These wells supply supplemental amounts of basin groundwater to meet area irrigation demands not fully satisfied by the quantity of recycled water produced.

⁵¹ Tertiary treated water is not suitable for drinking. However, an extensive industry testing program concluded it was safe to use on crops.

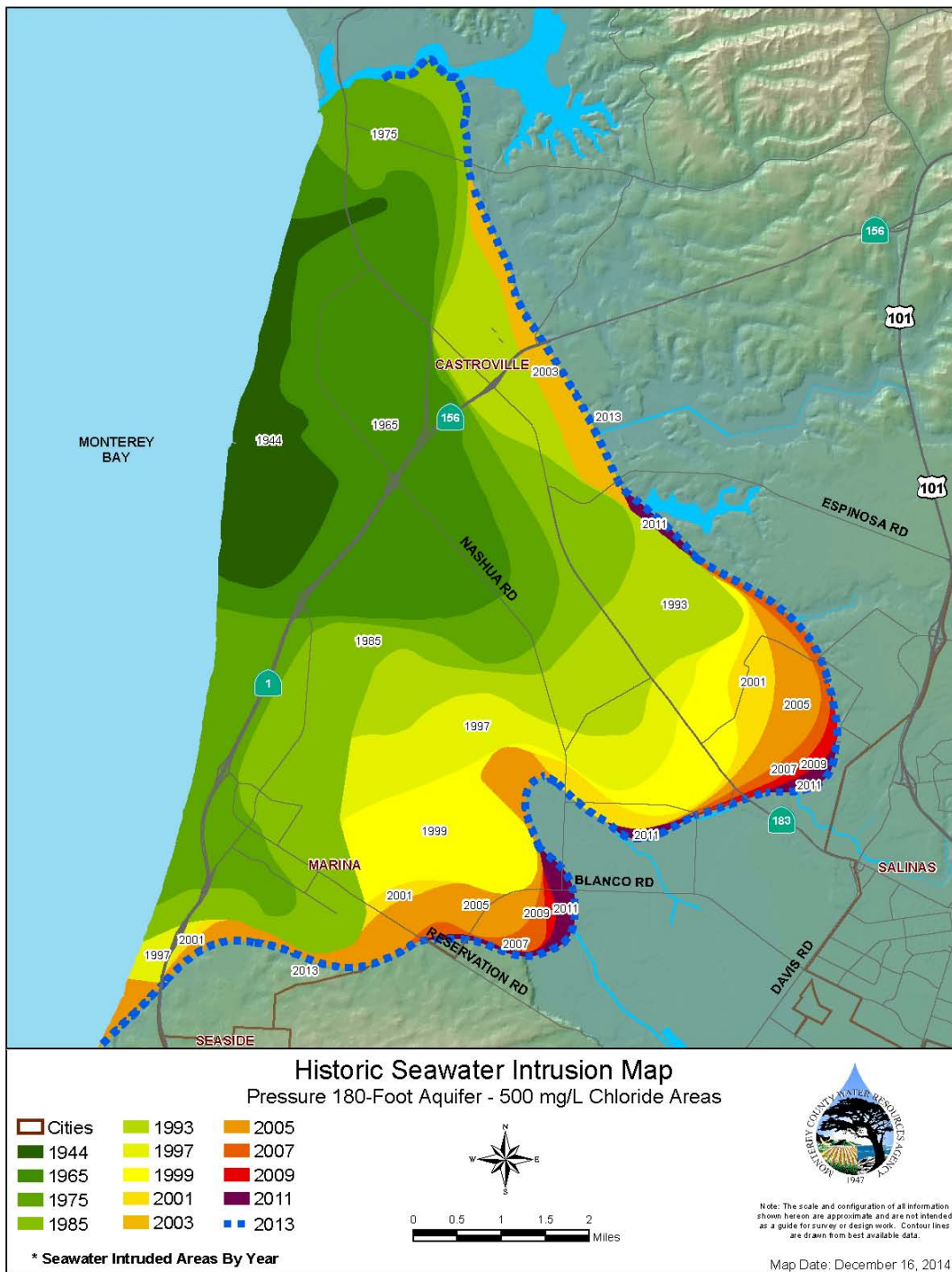


FIGURE 4

Salinas Valley Basin 180 Foot Aquifer

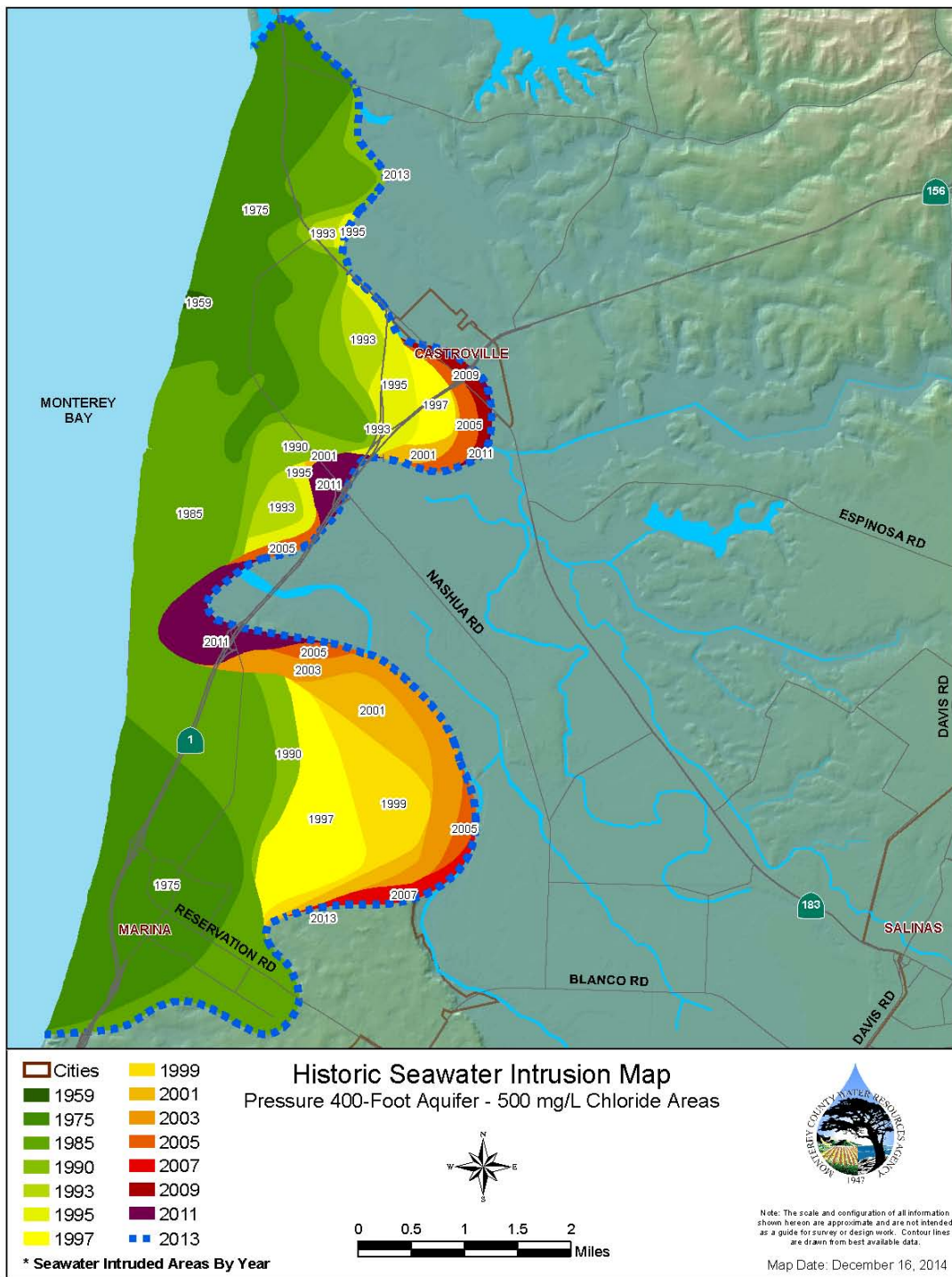


FIGURE 5

Salinas Valley Basin 400 Foot Aquifer

2. The Pure Water Monterey Groundwater Replenishment Project

The proposed Pure Water Monterey Groundwater Replenishment Project is a water recycling project developed through the joint efforts of the MPWMD and the MRWPCA. In essence, it is a multi-component program intended to benefit both the Seaside and Carmel Valley groundwater basins by creating a new source of potable water. In so doing, the program would result in reduced groundwater demand and resultant reduced stress on both basins. The project's Final Environmental Impact Report explains the project as follows:

Replenishment of the Seaside Groundwater Basin. The project would enable California American Water Company (Cal-Am) to reduce its diversions from the Carmel River system by up to 3,500 acre-feet per year by injecting the same amount of purified recycled water into the Seaside Basin. The purified recycled water would be produced at a new [advanced purification] facility at the MRWPCA Regional Wastewater Treatment Plant and would be conveyed to and injected into the Seaside Groundwater Basin via a new pipeline and new well facilities. The injected water would then mix with the existing groundwater and be stored for future urban use by Cal-Am, thus enabling a reduction in Carmel River system diversions by the same amount.

Additional recycled water for agricultural irrigation in northern Salinas Valley. An existing water recycling facility at the Regional Treatment Plant (the Salinas Valley Reclamation Plant) would be provided additional source waters in order to provide additional recycled water for use in the Castroville Seawater Intrusion Project's agricultural irrigation system. It is anticipated that in normal and wet years approximately 4,500 to 4,750 acre-feet per year of additional recycled water supply could be created for agricultural irrigation purposes. In drought conditions, the Proposed Project could provide up to 5,900 acre feet per year for crop irrigation.”⁵²

Figure 6 is a diagram of the Projects intended water recycling path. Pure Water's Environmental Impact Report has been completed and operations are estimated to begin by the end of 2017.

⁵² Denise Duffy & Associates, Inc. Consolidated Final Environmental Impact Report for the Pure Water Monterey Groundwater Replenishment Project, January 2016.

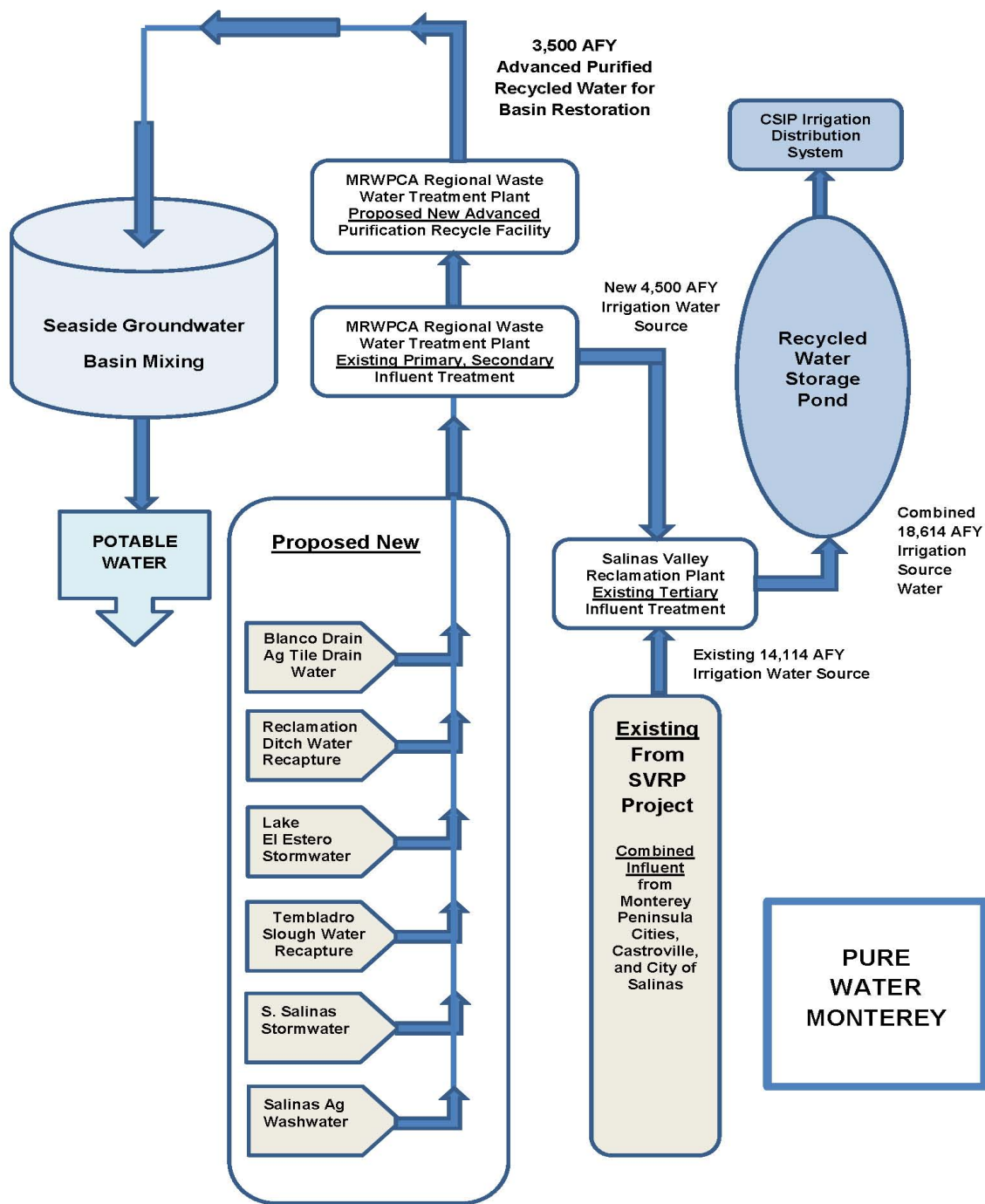


FIGURE 6

3. The Soledad Water Recycling/Reclamation Project

The City of Soledad's Water Reclamation Facility receives all wastewater from the City and surrounding community, including the nearby Salinas Valley State Prison. At the Reclamation Facility, the wastewater is treated and recycled into a pond. The recycled water then seeps into the groundwater basin. The Salinas Valley IRWMP includes proposed funds to build a pipeline to link the Soledad's Water Reclamation Facility with the City water system to irrigate all City parks and landscaping, neighboring farmlands and future planned development landscaping needs within City limits. Overall, the project helps to improve groundwater quality and conserves the potable groundwater sources.

B. SURFACE WATER DIVERSION PROJECTS

1. The Salinas Valley Water Project

The Salinas Valley Water Project (SVWP) was designed to assist with the long-term management and protection of groundwater resources in the Salinas Valley Basin. At the time of project planning, recycled water was being treated and used for farmland irrigation in the area now served by CSIP. The new project was designed to blend surface water from the Salinas River to the existing program's recycled water, thereby increasing the volume of water available for irrigation. If successful, groundwater pumping from wells drawing from the valley's coastal aquifers would be reduced, which should help the basin aquifers to recharge.

The mixing of recycled water and river water begins at the Salinas River Diversion Facility (SRDF) located along the Salinas River, roughly five miles from the ocean. It consists of an inflatable rubber dam and pump station to withdraw flowing river water, a pipeline to an 80-acre recycled water storage pond, and facilities for filtration and chlorination. Once in the storage pond, the river water is combined with tertiary treated recycled water to be delivered to Castroville farmlands via the CSIP distribution system. A second component of SVWP's initial phase included the modification of the Nacimiento Reservoir to handle larger flood flows and better control dry season Salinas River flows.

A second phase of SVWP is currently planned to provide for two additional diversion points for river water, again intended to reduce the need for groundwater pumping as a source for irrigation waters.

2. Seaside Aquifer Storage & Recovery Project (ASR)

Cal-Am distributes water from both the Carmel Valley and Seaside groundwater basins. It's been estimated that Monterey Peninsula gets approximately 70 percent of its water from the Carmel River groundwater basin and 25 percent from the Seaside Basin. While these basins are separate, they are physically connected by Cal-Am's water distribution system. Both basins have suffered from over pumping. In the case of the Carmel Valley Basin, over pumping has led to reduced flows in the Carmel River, depleted aquifer storage, and damage to wildlife habitat. In the case of the Seaside Basin, continued over pumping and ongoing seawater intrusion in the nearby Salinas Valley basin indicates that the Seaside aquifers are also vulnerable to seawater intrusion. Fortunately, as of 2012, seawater intrusion had not yet occurred.⁵³

The Seaside Basin aquifer system is much larger and deeper than the Carmel Valley aquifer. As a result of its over pumping and related lowering of groundwater levels, there has been a significant amount of unused storage volume in the Seaside Basin. To take advantage of the unused storage capacity and increase the amount of fresh water available for peninsula users, the Monterey Peninsula Water Management District (MPWMD) with the cooperation of Cal-Am, instituted its Aquifer Storage and Recovery (ASR) project. After a testing phase, the ASR system became operational in 1998 and has been expanding in scope since that time.

In years when there are heavy winter flows in the Carmel River, the result is the loss of unused surface waters flowing to the ocean. ASR consists of diverting portions of heavy winter flows to Cal-Am's distribution system where it is then treated and injected into the Seaside Basin, which functions as an underground storage reservoir. Later,

⁵³ HydroMetrics, Water Year 2012 Seawater Intrusion Analysis Report, Seaside Basin, Monterey County, California, November 30, 2012.

during the dry season, the stored water can be pumped out of the “reservoir” to help reduce pumping from the Carmel Valley aquifer, while retaining a substitute source of usable water. In recent drought years ASR has not been as productive as it has in more normal rainfall years.

C. GROUNDWATER MONITORING PROGRAMS

1. California Statewide Groundwater Elevation Monitoring (CASGEM) Program

In 2009, the State legislature added provisions to the Water Code that required DWR to establish the CASGEM program to periodically monitor groundwater elevations in groundwater basins throughout the state. The purpose of the program is to track seasonal and long term trends in the state’s groundwater basins. CASGEM requires local water management entities to collect groundwater elevation data in their area and provide that data to DWR for analysis. Locally, MCWRA is the monitoring entity for seven high and medium priority basins in Monterey County.

Participation in the CASGEM program by groundwater well owners is voluntary. The MCWRA currently monitors 48 wells scattered throughout the County, some of which are privately owned and some publicly owned. Keeping track of basin groundwater levels over time enables officials to evaluate the basin’s relative health.

2. Groundwater Extractions Monitoring System (GEMS)

In 1993, the Monterey County Board of Supervisors adopted ordinances 3663 and 3717. These ordinances required water suppliers in specified zones of the county to report water use information for groundwater extraction wells and water service connections. MCWRA collects the data annually from over 300 wells and inputs the data into a computerized data base maintained by the agency. Until recently, in order to encourage participating well owners to accurately divulge the extent of their extractions, that data was reportedly not available to the public.

D. SALINAS RIVER FLOW ENHANCEMENT PROJECTS

1. Salinas River Arundo Removal Project

The Resource Conservation District of Monterey County (RCD), MCWRA, and landowners along the Salinas River are coordinating efforts to remove Arundo plants from the Salinas River. Arundo, commonly known as *giant reed*, is a tough invasive “perennial grass that grows from nine to thirty feet tall. It grows in many-stemmed, cane-like clumps, and often forms large colonies many meters across. Individual stems are tough and hollow, divided by partitions at nodes like bamboo.” Arundo is primarily a problem in waterways. Its “dense stands often displace native vegetation; diminish wildlife habitat, and increase flooding and siltation in natural areas.” Most importantly for groundwater sustainability, stands of Arundo “increase water loss from underground aquifers because of the rate at which they use water. The rate of water loss has been estimated at roughly three times more than that of the native riparian vegetation.”⁵⁴

Arundo has been accumulating in the Salinas River corridor and its tributaries for several years. The Arundo Removal Project is being carried out in two phases. The first phase cleared 11.5 miles along the river as a demonstration project. Phase two will include an additional 94-mile stretch and is scheduled to begin in the fall of 2016.

2. Interlake Tunnel Project

According to MCWRA project information, the Nacimiento River watershed, on average, produces nearly three times as much water volume as the San Antonio River watershed. As a result, the Nacimiento Lake reservoir fills three times faster than the Lake San Antonio reservoir. During heavy flows, the Nacimiento dam is legally required to release large amounts of water over its spillway for reasons of flood control. However, while the Nacimiento reservoir is releasing water over its spillway, there remains a large volume of unused storage capacity in the Lake San Antonio reservoir. If the spillway water from the Nacimiento reservoir were diverted to the San Antonio Reservoir, then water could be released at strategic times from the San Antonio

⁵⁴ DiTomaso, J.M., G.B. Kyser et al. Weed Control in Natural Areas in the Western United States. Weed Research and Information Center, University of California. 2013, 544 pp.

Reservoir into the Salinas River to recharge Salinas Valley basin aquifers and to supplement waters delivered to the Salinas River Diversion Facility.

The controversial Interlake Tunnel Project is the means by which the inter-lake water diversion is intended to occur. The project calls for drilling a tunnel between the two reservoirs and inserting a pipeline that would allow water transfer to occur using a downhill gradient. In mid-2014 the Monterey County Board of Supervisors approved funds for a full engineering analysis and preliminary project planning.

E. DESALINATION PROJECTS

There are currently four planned or proposed seawater desalination projects under discussion for Monterey County, each of which differs from the others in its technology features and stage of development. There is no way of knowing at this point which, if any, will:

- Survive all required state and federal permitting processes.
- Obtain all necessary project funding.
- Satisfy all local ordinance requirements.
- Be the first to produce desalinated water for community distribution.
- Be allowed to proceed, even if another project has already begun to produce desalinated water.

1. The Monterey Peninsula Water Supply Project (MPWSP)

MPWSP is a multi-faceted plan, the components⁵⁵ of which are intended to help develop a sustainable water supply for the Monterey Peninsula communities. A critical component of the plan calls for a new seawater desalination plant, to be located in Moss Landing. The plant is to be designed and constructed by Cal-Am, with public participation and oversight by MPWMD and others.⁵⁶ Depending on the success or

⁵⁵ Other program elements include the Aquifer Storage and Recovery project and the Groundwater Replenishment project, both of which are discussed elsewhere in this report.

⁵⁶ MPWSP is overseen by a Governance Committee comprised of representatives of California American Water, the Monterey Peninsula Regional Water Authority, the Monterey Peninsula Water Management District, and the County of Monterey. <http://www.mpwmd.net/GovernanceCommittee/GovernanceCmte.htm>

failure of the MRWPCA's Pure Water Monterey project,⁵⁷ the desalination plant will be sized at either 6.4 mgd or 9.6 mgd (million gallons per day). Its intake system will use "slant wells", a relatively new technology.

The goal of MPWSP is to construct a desalination facility with an output capacity sufficient to meet the water use demands of Monterey Peninsula communities for the foreseeable future. A successful conclusion to MPWSP would allow Cal-Am to greatly reduce its groundwater pumping from the Carmel Valley (River) Basin and the Seaside Basin aquifers. The pumping reductions are required by existing state and judicial orders. Cal-Am has stated that it would no longer be able to continue its present level of water service to Peninsula communities unless a new source of potable water, in sufficient quantities, can be developed in the near future.

Cal-Am has moved its desalination project forward on a number of fronts, but it has also suffered setbacks. After earlier delays, the California Coastal Commission voted unanimously, on October 6, 2015, to approve an amendment to Cal-Am's permit, allowing it to operate a test slant well for its proposed seawater desalination project. Later in the year, contractors were awarded contracts for the construction of 22 miles of planned desalinated water delivery pipelines and construction of the planned slant seawater intake wells.

There have been a number of delays and a series of missteps involving Cal-Am's completion and submission of necessary Environmental Impact Reports (EIRs). The latest of these delays was announced in March 2016, when the California Public Utilities Commission (CPUC) postponed the planned date for the release of its "draft environmental impact report and environmental impact assessment" until December 21, 2016. Cal-Am predicted that the CPUC's rescheduling would set the project back for one year, delaying the availability of the project's desalinated water until the first half of 2020. According to a recent news article, CPUC officials have promised to consider ways to speed up its review process.

⁵⁷ <http://www.purewatermonterey.org>

2. DeepWater Desal

Like Cal-Am, DeepWater Desal LLC is planning to build a desalination facility in Moss Landing. Unlike Cal-Am's project, however, the DeepWater project is intended to have a broader geographic reach, making a new supply of potable water available north to Santa Cruz, east to Salinas and south to the Monterey Peninsula. Also unlike Cal-Am's project, the proposed DeepWater desalination facility will be co-located with a seawater-cooled computer data center.

The planned desalination plant will employ a reverse osmosis desalinating process and have the capability of producing up to 25,000 AFY of potable water. The co-located data center facility will be capable of producing 150-megawatts of power. Intake seawater will be used to cool the data center facility before being piped through the desalination process. The seawater is intended to absorb unwanted heat from the data center building, eliminating the need for energy-inefficient chillers and evaporative cooling systems.

As an added benefit, the desalination plant, as designed, should also be energy-efficient, since the seawater piped to the plant after being warmed in the data center is expected to reduce the energy required to operate the reverse osmosis process. The energy requirements for the project will be supplemented by solar power to be supplied by PV2 Energy, a planned solar farm in the nearby Panoche Valley.

DeepWater Desal officials have stated that their project is not in direct competition with the Cal-Am desalination project, even though MPWMD has indicated that DeepWater Desal is considered the "backup" to Cal-Am's project should Cal-Am's project not be viable.

Preparation of environmental reviews was initiated in the fall of 2015 for both state and federal agencies. The federal permit review process will be conducted concurrently with the state process. DeepWater Desal's initial time projection called for desalinated water availability in 2017. However, funding for the project has not yet been resolved.

Recent updates indicate that the project's draft EIR will not be ready until late 2016 or early 2017, delaying the start of water production until 2019.

Upon project completion, it is anticipated that the desalination facility will be sold to a Joint Powers Agency (JPA) formed from municipal agencies in the Monterey Bay area region. Those agencies would subscribe for the plant's output in the amount of their respective needs, and possibly contract with DeepWater Desal to operate the facility, with oversight provided by the JPA.

3. Marina Coast Water District (MCWD) Desal Project

MCWD has stated its intent to complete two water projects during the next decade, one of which is to build and operate a 2700 AFY seawater desalination plant. On January 21, 2015, its Board of Directors authorized securing firms to conduct an environmental review, prepare a financing plan, and design/build a 2700 acre foot desalination facility. On March 2, 2015 the Board of Directors revised that plan, calling for the solicitation of proposals to complete a 10% design of a 2700 acre foot desalination facility and solicitation of proposals to begin environmental analysis and participation in the conceptual design. On February 8, 2016, the MCWD Executive Committee reviewed a list of District priorities that included moving the desalination project along "by getting the engineering firm and environmental firm under contract."⁵⁸ From the foregoing, it appears that a MCWD desalination plant will not be available for inclusion in near term groundwater sustainability planning.

4. The People's Moss Landing Water Desalination Project (PMLWDP)

The PMLWDP is a proposed desalination facility to be built in Moss Landing, California. According to its website,⁵⁹ the project team⁶⁰ published its Draft Process Design Report and Cost Information in March 2015. The report projected that the plant will provide 9,752 acre feet per year ("AFY") of potable water to the Monterey Peninsula and 3,652

⁵⁸ Marina Coast Water District, Executive Meeting Minutes, 2/8/2016, Approved 03/14/2016.

⁵⁹ <http://www.thepeopleswater.com>

⁶⁰ <http://www.thepeopleswater.com/the-team/>

AFY of potable water to North County. Construction costs were estimated at \$140 million. With the inclusion of pipeline construction and operating costs, the desalinated water cost is projected to be \$1900-\$2000 per acre foot. In a recent *Monterey Herald* article, project officials stated that their draft EIR would be ready for public release in July 2016 and that they expect to deliver water sometime in 2019.⁶¹

5. The Existing Sand City Water Supply Project

Discouraged by the lack of progress in developing new sources of water within Monterey County, the City of Sand City, with the cooperation of Cal-Am, built and put into operation a small 300 AFY desalination facility for City use. The facility acquires brackish water from four (4) local wells, and treats it by a reverse osmosis process. The facility is operated by Cal-Am under contract with Sand City.

CONSERVATION MEASURES

It goes without saying that conservation measures assist in achieving groundwater sustainability. By now, after several years of drought, virtually every household and business in Monterey County is aware of the many ways in which water can be conserved on a day-to-day basis in homes, office buildings, and other business facilities. At the same time, ag growers have begun to switch from sprinkler irrigation to drip tape irrigation for crops that can do well with that irrigation method. According to figures reported in MCWRA annual Groundwater Extraction Reports, in 2009, out of 176,463 net ag acres, 53.85 % were irrigated by drip irrigation.⁶² By 2015, out of 179,521 net ag acres, 70.02% were irrigated by drip irrigation.⁶³

No doubt there are still more ways to conserve water in Monterey County, but this report is not intended to present an informed discussion of such possible measures. A reminder of the role that conservation plays in groundwater sustainability, however, is

⁶¹ Johnson, Jim. "Desal proposals expect draft EIRs." *Monterey Herald*, April 7, 2016.

⁶² Monterey County Water Resources Agency, 2005 Groundwater Extraction Report. April 2007.

⁶³ Monterey County Water Resources Agency, 2014 Groundwater Extraction Report. October 2015.

appropriate in a county that depends so heavily on groundwater as its primary water source.

STRUGGLE AHEAD?

The California State Water Resources Control Board is currently hearing testimony in enforcement actions ENF01949 and ENF01951.⁶⁴ That dispute arose because of the Board's issuance of enforcement orders, limiting the amount of water that two irrigation districts near Tracy, California, could pump from the Delta. The matter at issue is whether the SWRCB has the authority to restrict such pumping. Although these actions deal with surface water pumping rather than groundwater pumping, when ultimately resolved (most likely in court) the result may well have consequences for the state's ability to restrict long held water rights, including groundwater rights. It may also have consequences for SGMA's viability. On March 25, 2016 the consolidated hearing on these matters was suspended for an unspecified period of time while the factual and legal issues were taken under consideration by the Hearing Officers.⁶⁵

During our interviews, those concerned with agricultural made clear their opposition to any GWMP that resulted in mandatory restrictions on groundwater pumping for irrigation purposes. Nevertheless, SGMA authorizes GMAs, among other things, to control groundwater extractions by limiting, suspending or otherwise regulating extractions from individual groundwater wells.⁶⁶ The inherent tension caused by the potential for restrictions on pumping will be an important hurdle for the Salinas Valley GSA formation and eventual GSP.

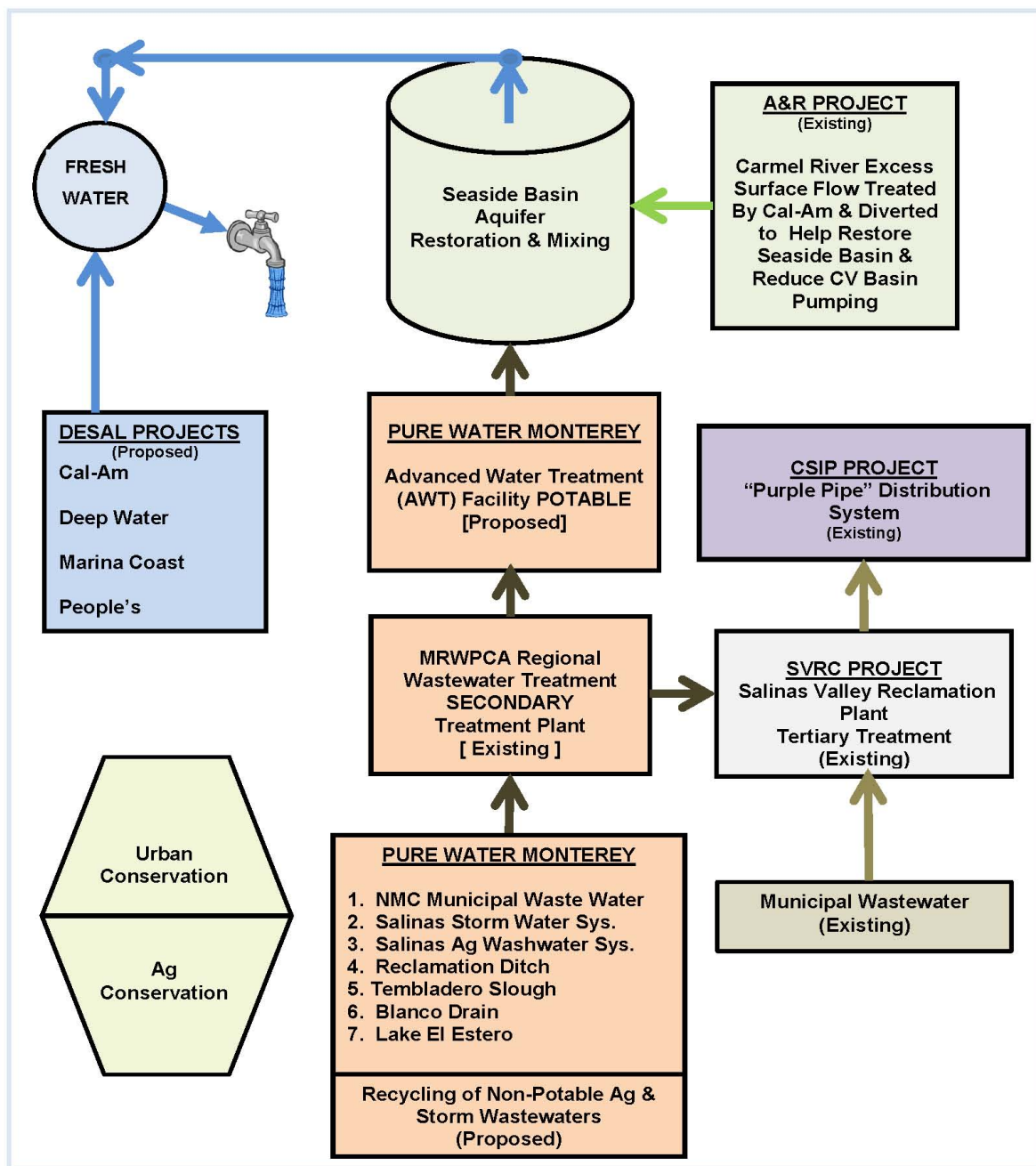
⁶⁴ In the Matter of Enforcement Action Enf01949, SWRCB Enforcement Action Draft Cease And Desist Orders Enf01951 And Enf01949 Regarding Unauthorized Diversions or Threatened Byron-Bethany Irrigation Unauthorized Diversions of Water From Old River In San Joaquin County and In the Matter of Enforcement Action Enf01951, Administrative Civil Liability Complaint Regarding Unauthorized Diversion Of Water From The Intake Channel To The Banks Pumping Plant (Formerly Italian Slough) In Contra Costa County.

⁶⁵ State Water Resources Control Board, Ruling issued March 25, 2016.

⁶⁶ California Water Code Section 10726.4 subsection (A)(2).

POTENTIAL INTEGRATION OF GWMP COMPONENTS

Viewed independently, it's very easy to lose track of how the various existing and proposed groundwater-saving projects and desalination plans work together toward common goals. While not all-inclusive, **FIGURE 7** demonstrates how several of the projects integrate in a way that that promotes sustainability, provides non-groundwater sources of water for agricultural irrigation, restores the Seaside Basin aquifer, and (hopefully) provide one or more new sources of potable water for Monterey County communities in the not-too-distant future.



ENVISIONING THE OLD AND NEW WORKING TOGETHER
FIGURE 7

Revised 4/25/2016

FINDINGS

- F1. Monterey County is critically dependent on groundwater for both its agricultural and urban water demands.
- F2. Groundwater is critically important to Monterey County's economy.
- F3. Several groundwater basin aquifers in Monterey County are now in overdraft.
- F4. Overdrafting has resulted in seawater intrusion into the 180 and 400 foot aquifers in the northern Salinas Valley Basin.
- F5. Seawater intrusion results in localized salt-contaminated groundwater that is unsuitable for both urban and agricultural uses.
- F6. If no Groundwater Sustainability Agency (GSA) is formed by June 30, 2017 for the Salinas Valley Basin, the County of Monterey could then choose to become the GSA for that basin.
- F7. If the County of Monterey chose to become the GSA for the Salinas Valley Basin that choice would prevent the State Water Resources Control Board (SWRCB) from intervening in the local Groundwater Sustainability Plan (GSP) planning process except for overseeing and insuring GSP compliance.
- F8. Prior to the Sustainable Groundwater Management Act (SGMA), local groundwater management plans lacked sufficient enforcement authority to fully manage groundwater sustainability.
- F9. SGMA confers on GSAs stronger enforcement authority than had existed under previous groundwater management enactments or local plans.
- F10. The non-adjudicated Salinas Valley Marina Area and the Salinas Valley Corral De Tierra Area should be included under the authority of the Salinas Valley Basin GSA and part of the GSA's Groundwater Management Plan (GMP).
- F11. Consensus Builders, Inc. has been retained by the City of Salinas, on behalf of itself and others, in an attempt to integrate competing Salinas Valley groundwater interest's in order to arrive at a consensus GSA before June 30, 2017.
- F12. Many local individuals and entities have for several years been vitally interested in preserving, enhancing, and sustaining both groundwater and surface water availability in the Monterey Peninsula-Salinas Valley areas.

- F13. As a result of past efforts, there are several existing and planned projects that could logically be included in any GSPs adopted within the Monterey Peninsula-Salinas Valley areas, since each such project impacts groundwater sustainability.
- F14. Some of the existing and planned projects for logical inclusion in a local GSP include:
- a. The Salinas Valley Reclamation Plant (SVRP) and the Castroville Seawater Intrusion Project (CSIP) Distribution System.
 - b. The Pure Water Monterey Groundwater Replenishment Project.
 - c. The Soledad Water Recycling / Reclamation Project.
 - d. The Salinas Valley Water Project.
 - e. The Seaside Aquifer Storage & Recovery Project.
 - f. The California Statewide Groundwater Elevation Monitoring Program.
 - g. The Groundwater Extractions Monitoring System.
 - h. The Salinas River Arundo Removal Project.
 - i. The Interlake Tunnel Project.
 - j. The Cal-Am Monterey Peninsula Water Supply Project.
 - k. The DeepWater Desal Desalination/Data Center Project
 - l. The Marina Coast Water District Desalination Project
 - m. The People's Moss Landing Water Desalination Project
 - n. The Sand City Water Supply Project
 - o. Urban Water Conservation
 - p. Agricultural Water Conservation
- F15. As with other legislation that impacts those with divergent interests, legal maneuvering and delaying tactics can, in the case of SGMA, cause the loss of local controls over groundwater planning and management.
- F16. As with other legislation that impacts those with divergent interests, legal maneuvering and delaying tactics can, in the case of SGMA, cause already critical groundwater conditions in Monterey County to get much worse, to the detriment of all concerned.

RECOMMENDATIONS

- R1. That every public and private entity interested in the formation of a GSA and the adoption of a GSP for the Salinas Valley Basin pledge to consider the groundwater needs of every other interested party with an open mind and a commitment to fairness.

- R2. That if the June 30, 2017 deadline for forming one or more GSAs for the Salinas Valley Basin is not met by other interested parties, the County of Monterey agree to become the GSA for that basin in order to prevent state intervention in local groundwater planning.
- R3. That the County of Monterey actively participate in the currently ongoing effort by Consensus Builders, Inc. to help achieve the formation of one or more GSAs for the Salinas Valley Basin before the June 30, 2017 deadline.
- R4. That the County of Monterey remain mindful of the possibility that it may become the GSA for the Salinas Valley Basin and, with that in mind, take all steps as far in advance of the June 30, 2017 deadline as necessary for it to assume that role prior to that deadline.
- R5. That the County of Monterey remain mindful of the possibility that it may become the GSA for the Salinas Valley Basin and, with that in mind, begin immediately to consider GSP optional components.

REQUIRED AND REQUESTED RESPONSES

Pursuant to Penal Code Section 933.05, the Civil Grand Jury requires responses from each of the following public entities:

Monterey County Water Resources Agency
Findings F1-16 and Recommendations R1-R5

Monterey Peninsula Water Management District
Findings F1-16 and Recommendations R1-R5

Monterey Peninsula Water Pollution Control Agency
Findings F1-16 and Recommendations R1-R5

Marina Coast Water District
Findings F1-16 and Recommendations R1-R5

Monterey County Board of Supervisors
Findings F1-16 and Recommendations R1-R5

As a matter of good faith, the Civil Grand Jury requests responses from each of the following entities to Findings F1-F16 and Recommendations R1-R5

Grower-Shipper Association of Central California

Monterey County Farm Bureau

Fort Ord Reuse Authority

California American Water Co.

Salinas Valley Water Coalition

LIST OF REFERENCED AUTHORITIES

Cal-Am vs. City of Seaside, et al., Superior Court of California, County of Monterey. Case No.M66343. Decision filed Mar.27, 2006, p.8-9, Finding 2.

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California State Water Resources Control Board. In the Matter of Enforcement Action Enf01951, Administrative Civil Liability Complaint Regarding Unauthorized Diversion of Water from the Intake Channel to the Banks Pumping Plant (Formerly Italian Slough) In Contra Costa County.

California Statutes 1913, chapter 586.

California Water Code Section 10720 subsection (b).

California Water Code Section 10721 subsection (g).

California Water Code Section 10721 subsection (r).

California Water Code Section 10721 subsection (u).

California Water Code Section 10721 subsection (w).

California Water Code Section 10721 subsection (x).

California Water Code Section 10722.2.

California Water Code Section 10726.4 subsection (A) (2).

California Water Code Section 10727.6.

California Water Code Section 10720.5 subsection (b).

California Water Code Section 10720.8.

California Water Code Section 10723 subsection (C)(1).

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State of California, Department of Water Resources. California's Groundwater Bulletin 118, Update 2003, Glossary, p.214.

State of California, Department of Water Resources. California's Groundwater Bulletin 118, Update 2003, p.98.

State of California, Department of Water Resources. Cease and Desist Order WR 2008-00XX-DWR, p.2, Finding 8.

State Water Resources Control Board Order 95-10, July 6, 1995.

State Water Resources Control Board, Ruling issued March 25, 2016.

University of California, Division of Agriculture & Natural Resources. June 2005.

APPENDIX 1

Collaborative Work Group Current Membership

Alco

Cal Water Service

Castroville Community Service District

CHISPA

City of Salinas

Driscoll Strawberry Associates

Environmental Justice Coalition for Water

California Native Plant Society

City of Gonzales

Grower-Shipper Association of Central California

LandWatch

Marina Coast Water District

Monterey County Regional Water Pollution Control Agency

Monterey County Farm Bureau

Monterey County Vinters & Growers

Monterey County

Salinas Valley Sustainable Water Group

San Luis Obispo County

Salinas Valley Water Coalition

Water Resources Agency

Sustainable Groundwater Management Act Implementation

Salinas Valley Groundwater Stakeholder Issue Assessment

Developed by Senior Mediators Gina Bartlett and Bennett Brooks, Consensus Building Institute

February 29, 2016

Executive Summary

In fall 2015, the Consensus Building Institute, a neutral nonprofit that helps groups collaborate, conducted a stakeholder issue assessment on forming a groundwater sustainability agency in the Salinas Valley Basin. California's Sustainable Groundwater Management Act requires that the basin identify an agency or group of agencies to oversee groundwater management by 2017 and then develop a plan to manage groundwater by 2020. CBI's role is to *help facilitate* local decision-making, recommending and leading a process that brings together all affected parties in productive dialogue, on forming the groundwater sustainability agency (GSA).

To understand and reflect the range of perspectives and to develop recommendations for the process to form a GSA, CBI conducted 35 in-depth interviews and received 86 individual surveys from a range of stakeholder interests in the Salinas Valley, including governmental (cities and counties), water agencies, agriculture, disadvantaged communities, environmental, business, and community representatives. Given the importance of groundwater in the region's water supply and economy, CBI's methodology is grounded in three core principles: (1) being comprehensive in soliciting input from the range of potentially impacted stakeholders; (2) being transparent in the nature of the feedback and recommendations provided; and (3) drawing on CBI experience and best practices to recommend an approach likely to foster effective and inclusive deliberations. This report presents CBI's assessment findings and recommendations for a transparent, inclusive process on forming a GSA in the Salinas Valley.

Findings

Findings reflect a range of feedback on GSA formation, the process, challenges, and critical issues. In brief, stakeholders articulate:

- Groundwater supply is high stakes; everyone recognizes the importance of forming the GSA successfully.

- Interviewees cannot identify any one organization as a likely candidate to serve as the GSA. Many envision multiple organizations coming together under a Joint Power Authority to form a singular GSA.
- The GSA must have the trust of all the interested parties and the technical expertise to develop the plan. The GSA should draw on existing data and studies wherever possible.
- Stakeholders strongly support inclusivity and diversity to build success in the process. Fairly representing all interests would support creating a shared framework of mutual benefit.
- Given that agriculture is the primary economic driver in the area, stakeholders recommend that agriculture have a significant voice in governance and decision-making on GSA formation, yet balancing that voice with urban, cities, county, and other interests.
- Many recognize the need to act to avoid both undesirable results and state intervention.
- Interviewees readily talk about historic tensions and sources of distrust in the region that the process must manage.
- Critical issues are tied to land use and small communities losing water supply because of poor water quality.
- “The Valley is innovative and progressive – it moves ahead to address problems.” While interviewees define and view groundwater supply quite differently, everyone concurs that a range of stakeholders must agree on the GSA.

Consensus Building Institute Process Recommendations

Create a Transparent, Inclusive Collaborative Process for Groundwater Sustainability Agency Formation

Stakeholders are broadly unified on several core aspects related to a process for identifying a GSA. It must be transparent. It must be inclusive. It must be accompanied by broad outreach. And it should draw on the best available data.

Convene a Groundwater Stakeholder Forum and Collaborative Work Group

The Groundwater Stakeholder Forum would be a periodic public forum with a range of interests participating that advises on GSA formation. The forum’s role would be to shape the overall process. Forum membership would encompass all stakeholders who are interested in groundwater and must be considered under SGMA. The Collaborative Work Group would develop consensus on the proposed GSA structure and recommend adoption by the GSA-eligible agencies. The work group would be a representative body with a focused number of participants (12-20) representing the interests of GSA-eligible agencies and groundwater users. CBI would work with interest groups to identify work group participants. The work group would develop detailed proposals and meet regularly with the Groundwater Stakeholder Forum to share ideas and solicit feedback on proposals. The work group would commit to incorporating forum feedback to the greatest degree possible. The work group could also form ad hoc committees to carry out detailed work. For example, CBI would recommend forming an engagement committee to develop the public engagement plan and a technical committee to begin to prepare for plan development.

Confirm Work Plan

The forum and the work group would have a decision-making work plan to outline its discussion topics. Between February and November 2016, these bodies would work diligently to develop a proposal for GSA formation. These conversations would be punctuated by public engagement activities. In winter 2016/17, the Collaborative Work Group would consult with agency governing boards and the public on the proposals. In spring 2017, the forum and work group would refine the GSA structure based on those consultations. Once the GSA structure was set, the responsible entities forming the GSA would issue public notice and hold a public hearing by spring 2017 before notifying the state in advance of the June 2017 deadline.

Design and Implement a Public Engagement Plan

Given the paramount importance and level of interest in groundwater in the Salinas Valley, CBI would recommend designing and implementing a public engagement plan and suite of activities to create transparency and information about GSA formation for the general public, translating materials and creating radio spots to reach Spanish-speaking communities.

Conclusion

The overarching goal of this effort would be to reach widespread support on forming the groundwater sustainability agency for the Salinas Valley and complying successfully with the Sustainable Groundwater Management Act. The keys to success are creating a transparent, inclusive process that engages interested stakeholders, designing a governance structure that balances interests, supports a vibrant economy, manages groundwater sustainably, and meets SGMA requirements. A viable and broadly supported GSA is the essential first step towards long-term sustainable groundwater management.

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