



Nacimiento Project Commission Notice of Meeting and Agenda

Thursday, February 16, 2006 – 4:00 pm
Templeton Community Services District Board Room
420 Crocker Street, Templeton CA

- I. Call to Order, Roll Call, and Flag Salute
- II. Public Comment
This is the opportunity for members of the public to address the Commission on items that are not on the agenda, subject to a three minute time limit.
- III. Meeting Notes from December 15, 2005
(RECOMMEND APPROVAL)
- IV. COMMISSION INFORMATION ITEMS – written reports with brief verbal overview by staff or consultant. No action is required.
 - a. Project Management Report
 - b. Project Schedule
 - c. Project Budget
- V. PRESENTATIONS – no action required.
 - a. Pro/Con Evaluation of Project Governance Alternatives
- VI. COMMISSION ACTION ITEMS
(Commission action only, no subsequent Board of Supervisors action required)
 - a. Election of Commission Officers
 - b. No-Cost Easement for Participant-Owned Land
- VII. COMMISSION ACTION ITEMS
(Board of Supervisors action is subsequently required)
 - a. Appraiser Services
- VIII. FUTURE AGENDA ITEMS DESIRED BY COMMISSION

Commissioners

Harry Ovitt, Chair, SLO County
Flood Control & Water
Conservation District

Dave Romero, Vice Chair, City of
San Luis Obispo

David Brooks, Templeton CSD

Grigger Jones, Atascadero MWC

Frank Mecham, City of El Paso
de Robles

**Next Commission meeting scheduled for
Thursday, April 27, 2006, at 4:00 pm at
Templeton Community Services District offices.**



Nacimiento Project Commission
February 16, 2006
Agenda Item III – Meeting Notes from December 15, 2005

I. Call to Order, Roll Call and Flag Salute

Chairman Ovitt convened the meeting at 4:10 pm.

Commissioners Present: Chairman Harry Ovitt, SLO County FC&WCD
 Vice-Chairman Dave Romero, City of San Luis Obispo
 Frank Mecham, City of el Paso de Robles
 Grigger Jones, Atascadero MWC
 David Brooks, Templeton CSD

II. Public Comment

There was no public comment.

III. Meeting Notes from October 27, 2005 Meeting

Commissioner Jones asked if the Governance Report was rescheduled for February 2006. Chairman Ovitt replied yes it was.

Meeting notes from the October 27, 2005, meeting were unanimously approved.

IV. Commission Information Items

John Hollenbeck delivered the project management report, updating that the likelihood of the Project receiving the full \$50-million from Proposition 50 funding is very low because currently, the amount of funding applied for compared to that which is available is 10:1.

Mr. Hollenbeck reported that Hamner-Jewell & Associates have obtained right-of-entry for the geotechnical work along the alignment for all but two properties. A new proposed alignment alternative presented by Black & Veatch will bypass the LaSalle Property along El Camino Real, as well as an additional 5 properties, and will be studied further. The Rabbit Ridge Winery progress for entry to conduct geotechnical investigations is also slowed by the owner's attorney.

Mr. Hollenbeck clarified that the Bond Anticipation Note (BAN) will close on December 22, 2005, not the previously stated December 21, 2005.

Mr. Hollenbeck presented the Project Schedule and stated that the Draft Preliminary Design Report (PDR) will be submitted by Black & Veatch by February 2006.



Mr. Hollenbeck presented the Project Budget which has been updated to reflect costs-to-date through November 30, 2005. He also presented a graphic that reflects current information, including the contract amendment for TJ Cross Agreement. The amendment to the ESA Agreement is scheduled for Board consideration on December 20, 2005.

V. Presentations

There were no presentations.

VI. Commission Action (No Board Action Required)

Item VI.a - Mr. Hollenbeck identified a need for formal documentation of the method used for calculating incremental unit costs of the Reserved Capacity. Black & Veatch created a method for calculating the Reserved Capacity that is similar to the original Boyle method, and was deemed reasonable by both the Project Manager and the Technical Support Group. Commissioner Jones moved to approve the proposed method; Vice-Chairman Romero seconded; passed unanimously.

Item VI.b - Mr. Hollenbeck presented the Year 2006 Meeting Calendar arranged in the same manner as the Calendar Year 2005. Vice-Chairman Romero identified a scheduling conflict and asked to move the February 23, 2006 meeting to February 16, 2006. Change was unanimously approved. Commissioner Mecham moved to approve the updated Year 2006 Meeting Calendar; Commissioner Brooks seconded; passed unanimously.

VII. Commission Action (Subsequent Board Action Required)

Item VII.a - Mr. Hollenbeck reviewed alternatives for limiting the size of the Commission. He recommends, with the support of the TSG, that the Delivery Entitlement Contract, the Nacimiento Commission By-Laws, and the Nacimiento Rules of Procedures be amended as per Alternative 2 which sets the maximum seat limit of the Commission to seven (the five existing Commissioners and two Other Participants that execute Delivery Entitlement Contract for a minimum of 1,000 acre-feet per year). Mr. Hollenbeck clarifies that the voting rights of the Commissioners would be calculated per the Delivery Entitlement Contract.

Public Comment to this recommendation was made by Mr. Don Spagnolo, Director of Public Works for Arroyo Grande. He states that Arroyo Grande is currently involved in a joint study with Grover Beach and Oceano CSD to identify options to obtain water. The report will be finished December 2005, and will go before the Arroyo Grande City Council January 10, 2006. Arroyo Grande is currently interested in 500-750 AFY, with a total need between the three entities of about 2500 AFY. As Arroyo Grande is the furthest along the line they will bear the greatest cost, and not having a seat on the Commission might be a deterrent to joining the project. Mr. Spagnolo requests the 1000 AFY minimum entitlement be removed or reduced as a guideline for Commission Membership or that a decision on the matter be postponed to the February 16, 2006, Commission Meeting.

No other Public Comment, and the item was returned to the Commission for discussion. Chairman Ovitt recognizes the need for a minimum entitlement for Commission membership. Vice-Chairman Romero advised that he had edits to the language presented in Exhibit A of the Staff Report. Mr. Hollenbeck acknowledged he had received the edits and will incorporate them. Vice-Chairman Romero states that there is no magic number and the 1000 AFY could be reduced. Chairman Ovitt



suggests amending the recommendation to have a minimum Delivery Entitlement of 500 AFY for Commission Membership. Commissioner Mecham asked Mr. Spagnolo what alternatives were being considered in their joint study. Mr. Spagnolo responded saying there were 17 alternatives at first, then reduced down to six alternatives, of which the Nacimiento Water Project is one of the six. Commissioner Mecham moved to adopt the recommendation to limit the Commission to 7 members with a minimum Delivery Entitlement of 500 AFY for the two Other Participants; Vice-Chairman Romero seconded; passed unanimously.

Item VII.b - Mr. Hollenbeck reported that a redistribution of the Reserved Capacity for the Project based on Alternative 1 (downsizing of conveyance of the Reserved Capacity based on the proportional Delivered Entitlement of the Initial Participants) is expected to reduce construction cost nominally within the range of \$8- to \$9-million. Commissioner Mecham asked if the County has discussed buying the excess capacity instead of downsizing. Mr. Paavo Ogren replied that the County's sources of funding are preventing their participation. The County simply does not have the customer base for this. Currently, the dedication of property tax revenues through the NWP Fund is the best Mr. Ogren can foresee, with a debt contribution of about \$40-million over the next 30 years. Vice-Chairman Romero recognizes the risk of project cost overrun and the possible loss of individual Participants or of the project as a whole. Vice-Chairman Romero moved to approve the staff recommendation to redistribute the Reserved Capacity; Commissioner Jones seconded; passes unanimously.

Item VII.c - At 5:15 p.m. Commissioner Mecham had to leave for another engagement and stepped down from discussion on Agenda Item VII.c. Mr. Hollenbeck identified the existing line item budget for this task of \$90,000 would be insufficient. He wishes to use design phase reserves to procure the services of STMJ and RGB for a total not-to-exceed fee of \$190,000 in aggregate total between the two firms. Chairman Ovitt requests a bullet breakdown of the contracts be presented to the Commission via e-mail. Mr. Hollenbeck will e-mail the Commission once negotiations will all have been completed. Commissioner Jones moved to approve the use of two firms for Appraiser Services; Vice-Chairman Romero seconded; motion passed 4-0.

VIII. Future Agenda Items Desired by the Commission

None noted.

Commissioner Ovitt adjourned the meeting at 5:25 pm.

Submitted by JP Salazar, Black & Veatch Corporation
and John R. Hollenbeck, Nacimiento Project Manager



Nacimiento Project Commission
February 16, 2006
Agenda Item IV.a – Project Management Report
(Information Only – No Action Required)

PROJECT RESOURCES

The following presents an update to the resources for the Project.

1. ***Appraisal Services.*** At the December 15, 2005, Commission Meeting (Agenda Item VII.c) staff presented the results of the proposals from the various appraiser firms, and received the following recommendation from your Commission:
 - a. Proceed with negotiations with two firms: Schenberger, Taylor, McCormick and Jecker, Inc (STMJ); and Reeder, Gilman & Borgquist (RGB)
 - b. Negotiate the split scope of work with the two firms such that the total aggregate of the appraisal service fee is \$190,000 or less.
 - c. Complete contract negotiations and proceed to the Board of Supervisors to finalize the execution of these two contracts.

Negotiations with these firms have results in a conflict with the aggregate fee total presented in item (b) above; therefore, please see the report in Agenda Item VII.a for further discussion and recommendation.

2. ***Value Engineering.*** Contacts with potential value engineering panelists are underway with the four-day value engineering workshop session scheduled for the week of March 13, 2006. To assemble the VE panel, a series of purchase orders with a VE moderator and technical specialists will be issued. Currently the VE facilitator and four technical specialists have agreed to participate in the VE session; and two to three other technical area representatives are still outstanding. The technical areas presently having a representative include: General Civil – Large Infrastructure; Mechanical, Electrical and Control; Intake and Facilities Crossings; and Pipelines, Civil-Structural. Areas not yet filled include Construction Cost Estimator, Underground Cost Estimator, and Operations/Maintenance. Estimated projections of fees to conduct the VE study indicated the session should be accomplished for less than the budget amount. An actual budget report on this activity will be presented at the April 2006, Commission Meeting.
3. ***Construction Management.*** A strategy for soliciting statements of qualifications and fee proposals from interested construction management firms is being developed and will be discussed with the Technical Support Group in the coming months.



PROJECT ISSUES

Prospective NWP Participants

Camp Roberts, Camp San Luis Obispo, and Heritage Ranch CSD await estimates of delivered water cost before deciding whether to seek Nacimiento deliveries. Black & Veatch is completing cost estimates for these potential new participants.

The cities of Arroyo Grande and Grover Beach recently accepted a recommendation to pursue seawater desalination as the City's supplemental water source, placing Nacimiento deliveries in second order of preference. Cost was a primary consideration, however permitting timeline and environmental impacts have yet to be identified for the seawater desalination approach.

Progress continues on developing Water Delivery Entitlement Contracts for County Service Area 10A, Lewis Pollard Family Trust, and Morro Rock Mutual Water Company (reference: Commission meeting held October 27, 2005, Item VII.b). It is anticipated that these new participants would execute the necessary agreements in April 2006.

Hydraulic Downsizing of the NWP Pipeline

The Board of Supervisors, at their January 24, 2006, meeting, unanimously supported the Commission's recommendation to change the Board's policy regarding distribution of Reserve Water. The Project's design team has now implemented this hydraulic downsizing of the pipeline components.

Status of Financial Issues

With regard to the San Luis Obispo County Flood Control & Water Conservation District's Proposition 50 application, the State Dept. of Water Resources is expected to submit written notifications in February 2006.

The Technical Support Group requested a timeline and list of activities to precede construction bond issuance. For example, evidence of revenues to support bond indebtedness and related financial data must be submitted by each Participant. Also, Atascadero Mutual Water Company is asked to formally declare their intent to pursue tax-exempt financing. The finance group conducted a conference call on February 9, 2006, to discuss the timing of activities needed to have financing available at the time of construction award, scheduled in summer/fall 2007. Bond Counsel will craft a master schedule of events and issue to the team in the coming months.

Congressman Thomas' office contacted the District to inquire about federal funding needs for Fiscal Year (FY) 2007. The District submitted several request for consideration, including a request for \$1.5M for the Nacimiento Water Project. Congressman Thomas' office indicated that \$1.5M was the maximum possible appropriations expected for FY 2007.

Legal Support

The County Counsel's office has prepared a memorandum which addresses its role at Commission Meetings. The memorandum will be distributed to each Commissioner at the meeting.



Water Delivery Entitlement Contract Amendment No. 2

Amendment No. 2 to the Water Delivery Entitlement Contract is presently being drafted and reviewed by County Counsel and Bond Counsel. This amendment addresses, among other things, Commission membership and steps to limit the size of the Commission over time. After the comments from Counsel are received and incorporate, the draft amendment will be distributed to the Technical Support Group members, who will provide review and also forward to each Participant's legal counsel. Ultimately, the item will be agendized at each Participant's governing bodies. The schedule for execution of this amendment is March 2006, in advance of execution of Water Delivery Entitlement Contracts with CSA 10A, Lewis Pollard Family Trust, and Morro Rock Mutual Water Company.

Status of Project Delivery Team Activities

Right of way – The focus of Hamner, Jewell & Associates' project activities are tying down the location of the pipeline and other project features with the design team. Any changes or refinements are discussed with affected property owners. The plan is to lock in both construction and permanent easement locations with the designers so that the surveyor may prepare legal descriptions and appraisers may begin valuation and offers.

With regard to access coordination, Hamner, Jewell & Associates have provided ongoing coordination with Schiff, Geomatrix, Cannon, Boyle, and Black & Veatch to facilitate their ongoing access needs. Geomatrix continued their soil investigations while we continued to work with property owners hesitant to provide permission for soils tests. To date, two property owners remain unwilling to provide permission to conduct soils tests: One attorney representing a commercial winery declined right-of-entry for soils work and advised re-routing around the winery's property. We arranged for access and viewing of this parcel from adjacent properties and we await a report back on any alternatives. A resident in North County remains sensitive to environmental issues and protective of the natural environment of their property, especially the creek area that borders their property. Designers evaluated the viability of alternative alignments and confirmed that the original alignment is preferred from the standpoint of cost to the public, impact on other private properties, ongoing operation, and other factors. We await that property owner's response to that confirmation.

Environmental Permitting – The last of the pre-permit application field work is underway (fairly shrimp surveys at Camp Roberts). Stream Alteration Agreements for geotechnical sampling are expected in early February and the EIR addendum is underway, focusing primarily on impacts associated with extension of PG&E service to the project. Camp Roberts confirmed that published environmental findings for the project will suffice for NEPA compliance. This is good news for assembling the support documents for easement acquisition across Camp Roberts both for the pipeline and for PG&E. ESA recently posted the draft Cultural Resource Investigation on the project FTP site and will continue to post environmental documents as they progress. ESA's current work plan centers on permit application submittal.

Design Engineering – Designers are concentrating on crafting the Preliminary Design Report which is scheduled for submittal prior to the February Commission meeting. The PDR will bring together numerous design approach issues and establish direction on such matters as pipeline, tank, and pump station capacity and sizing criteria, power supply and the extent of back-up power, hydraulic controls, intake design, water quality considerations, and a host of related topics. Black & Veatch hosts regular workshops on various design topics, thereby keeping District staff and Participants involved in design



decisions. Since December, the Black & Veatch design team participated in meetings with PG&E, Monterey County Water Resources Agency, Camp Roberts, and the Army Corps of Engineers (discussed below). They continue to work with District staff on the cost allocation model, used to estimate delivered water cost under varying peak deliveries and to potential new participants.

Following the VE session in mid-March, Black & Veatch will conduct a workshop with the TSG to present findings from the VE report and make recommendations on changes in project features suggested by the VE team. At the April 2006, Commission Meeting, Black & Veatch will present to the Commission a summary of these results, and will also present the revised 30-percent construction cost estimate and a trend analysis of overall project construction costs changes.

As of the end of December, Geomatrix completed a substantial portion of the field exploration. Geologic maps are being compiled and lab testing of samples gathered is underway. Corrosion potential measurements have been taken along the route. State Fish & Game permits are pending with permission to drill at Dry Creek on Camp Roberts and the middle Salinas River crossing expected first. An endangered bird was spotted at the northern river crossing, expecting to delay access for boring until late this coming summer.

With regard to surveying, bathymetric surveying at the lake was completed for use in design of the intake tower. Initial mapping deliverables from Cannon Associates lack some information required by the surveying scope of work. Black & Veatch met with Cannon Associates to rectify these omissions and awaits resubmittal of mapping deliverables.

Other surveying activities include preparation of an exhibit of the Glick property and surrounding area south of Cuesta Tunnel. Legal descriptions for use in easement acquisition are pending.

Financing Team – As previously mentioned, the financing team is to assemble a timeline and list of activities to precede construction bond issuance. This will be distributed to the Technical Support Group.

Outside Agency Issues

PG&E Coordination. Since December, further coordination with PG&E has taken place. PG&E staff characterizes the Project's share in service extension costs differently than in prior meetings, a change in posture that could exceed the \$1.1 million service extension line item budget. District staff is considering bringing in a power specialist well-versed in PG&E service issues to assist in negotiations.

Monterey County Water Resources Agency. The Project Manager, staff from the cities of San Luis Obispo and Paso Robles, and other design team members participated in a conference call with Monterey County Water Resources Agency staff on January 27, 2006. We discussed the approach to the intake tower configuration and received initial comments on Amendment No. 2 to the 1959 Nacimiento water entitlement contract. The purpose of that amendment is to allow release of Project water at facilities other than the existing low level outlet works. MCWRA brought up some broader inter-agency coordination issues that affect ongoing activities in the watershed – issues to be discussed further at the upcoming elected official's meeting.

The elected official's meeting is scheduled for 11:30 a.m. on March 24, 2006, in King City. Commissioner/Supervisor Ovitt and Commissioner Mecham are scheduled to attend to represent both



the District's and Project's officials. Supervisor Lindley and Director Morgantini will attend from Monterey County.

Camp Roberts. Team members also met with Camp Roberts/Army Corps staff on January 24, 2006. PG&E also participated in that meeting, discussing the need for a powerline easement in support of the Project. A good level of cooperation exists with this group and the Project Manager agreed to submit a copy of the draft Preliminary Design Report for Camp Roberts/Army Corps review. ESA's environmental reports, too, are posted on an FTP site as they are finalized. The group settled on details of assembling the Report of Availability, the document necessary to proceed with securing an easement. A 25- or 50-year easement term is likely, an issue that must be considered in valuation. The next staff meeting is tentatively set for April 18, 2006.

Other. The Project Manager gave a presentation in mid-January to the Atascadero Rotary on the status of the Nacimiento Water Project. He is scheduled to give a similar presentation to the local branch of the American Society of Civil Engineers and the local Project Management Institute organization, both in mid-June 2006.



Nacimientto Project Commission

February 16, 2006

Agenda Item IV.b – Project Schedule

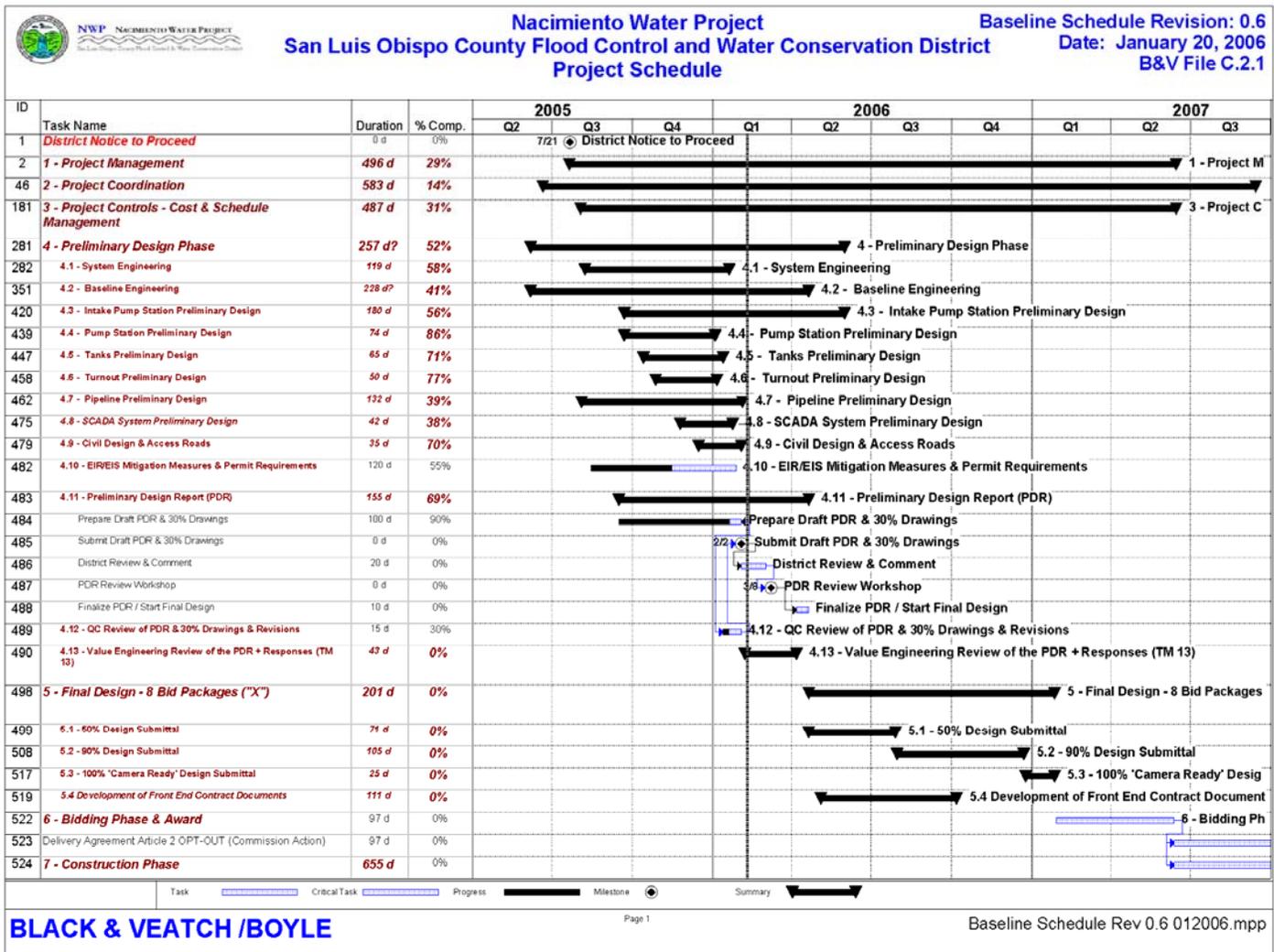
(Information Only – No Action Required)

Black & Veatch conducted a two-day presentation of the Draft Preliminary Design Report to the Project Manager at their Irvine office on February 2 and 3, 2006. The comments provided during this workshop were immediately distributed to the engineering team leads for final production of the draft PDR. The full distribution of the draft PDR is scheduled for February 22, 2006.

A value engineering session will be conducted on the draft PDR during the week of March 13, 2006.

A workshop with the TSG and District staff will be conducted near the end of March 2006.

The bar chart schedule below is a summary of project activities.

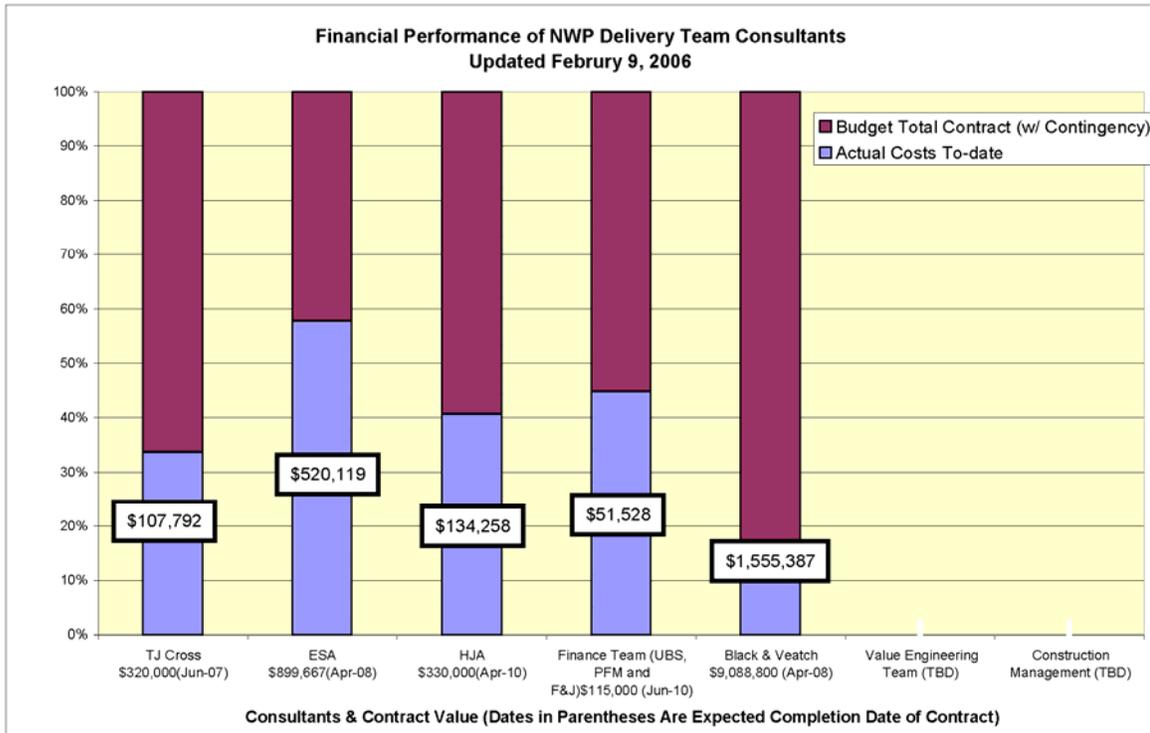


Nacimiento Project Commission
February 16, 2006
Agenda Item IV.c – Project Budget
(Information Only – No Action Required)

In addition to the attached budget status information, two activities are underway that pertain to project budget. One is that the cost allocation model is in its final stages of calibration and will be used to calculate delivered water cost to potential new participants. Camp Roberts, Camp San Luis Obispo, and Heritage Ranch CSD await official cost estimates from the District before deciding whether to seek project participation.

Further, the cost allocation model was used to estimate the capital costs of providing increased peak deliveries to the North County Participants (City of San Luis Obispo does not seek peak deliveries). Designers established that peak deliveries could be made without significant increases in pipe sizes, so capital cost impacts were relatively minor. The terms of the entitlement contract are under scrutiny to determine how power costs and other operations and maintenance costs would be shared under the peak delivery approach.

Paso Robles and Atascadero Mutual Water Company have issued letters requesting changes to the instantaneous flow and the maximum monthly volume delivery in accordance with Article 6. These letters address each Participant’s desire for receiving peaking flows from the Project. A letter from Templeton Community Services District has not been received to-date. No letter is expected from San Luis Obispo since they do not require peaking deliveries. The District, through Black & Veatch, will evaluate the costs impacts of these requests and will share these with the Participants’ TSG and the Commission at a future meeting.



**Nacimiento Water Project
Project Budget Reporting
Report Ending Period: 1/31/06**

	Initial Budget	Revised Budget as Approved February 2005 Revised 12/20/05	Cost to Date thru 1/31/06	Remaining Budget	Projected Total Cost as of 12/20/05	Projected Variance (Budget Vs. Cost)	Comments
Design Phase Anticipated Costs							
Project Management	\$1,250,000	\$1,875,000	\$827,508	\$1,047,492	\$1,875,000	\$0	Includes County Project Manager, VE, support staff, consultant support, and legal fees.
Environmental	\$800,000	\$899,667	\$507,382	\$392,285	\$899,667	\$0	ESA-Includes design assistance, permit applications, agency coordination.
PG&E Service Extension	\$1,100,000	\$1,100,000	\$5,170	\$1,094,830	\$1,100,000	\$0	Initial estimate to extend power to proposed facilities
Right of Way Consulting Services	\$500,000	\$425,000	\$182,529	\$242,471	\$425,000	\$0	Hamner-Jewell contract plus allowance for appraisal and title reports by others
Property Acquisition	\$2,000,000	\$2,000,000		\$2,000,000	\$2,000,000	\$0	
Construction Mgt/Constructability Review	\$2,000,000	\$2,000,000		\$2,000,000	\$2,000,000	\$0	Initial CM services authorization
Engineering Design (Includes geotechnical & survey)	\$10,250,000	\$9,650,000	\$1,253,155	\$8,396,845	\$9,088,800	\$561,200	Black and Veatch Corporation
Finance	\$0	\$115,000		\$115,000	\$115,000	\$0	PFM, UBS, and Fulbright&Jaworski
					Total Variance=	\$561,200	
Design Phase Budget Reserve	\$1,000,000	\$835,333		\$835,333	\$1,396,533		
SUMMARY - DESIGN PHASE	\$18,900,000	\$18,900,000	\$2,775,744	\$16,124,256	\$18,900,000		
Construction Phase Anticipated Costs							
Project Management	\$2,325,000	\$2,712,500		\$2,712,500	\$2,712,500	\$0	2/05-extended +4 months
Environmental Mitigation	\$3,700,000	\$3,720,000		\$3,720,000	\$3,720,000	\$0	Contingency item (estimated as approximately 4% of construction cost) for pipeline realignment, special construction techniques, and other costs incurred due to unforeseen environmental issues
Materials Testing	\$300,000	\$300,000		\$300,000	\$300,000	\$0	
Construction Management	\$4,200,000	\$4,185,000		\$4,185,000	\$4,185,000	\$0	Est. at 4.5% of construction cost, inc design phase work
Environmental Monitoring	\$1,800,000	\$1,800,000		\$1,800,000	\$1,800,000	\$0	Includes cost for cultural and biological monitors during construction
Construction Contracts	\$93,000,000	\$93,000,000		\$93,000,000	\$93,000,000	\$0	
Construction Phase Contingency and Reserve	\$24,231,000	\$23,838,500		\$23,838,500	\$23,838,500	\$0	
SUMMARY - CONST. PHASE	\$129,556,000	\$129,556,000	\$0	\$129,556,000	\$129,556,000	\$0	
Prior Expenses							
Advance Expenditures	\$513,000	\$513,000		\$513,000	\$513,000	\$0	
Cuesta Tunnel	\$1,031,000	\$1,031,000		\$1,031,000	\$1,031,000	\$0	Includes construction of Nacimiento Water Project pipeline section through Cuesta Tunnel
				\$0	\$0	\$0	
TOTAL PROJECT*	\$150,000,000	\$150,000,000	\$2,775,744	\$147,224,256	\$150,000,000	\$561,200	

* Rounded to \$100k

Memorandum(s):

Positive Projected Variance indicates costs are under the revised line item budget.

Recent Update: 2/9/06

Nacimiento Project Commission
February 16, 2006
Agenda Item V.a – Pro/Con Evaluation of Project Governance
(Presentation - No Action Required)

TO: Nacimiento Project Commission

FROM: John R. Hollenbeck, P.E., Nacimiento Project Manager

VIA: Noel King, Director, Department of Public Works

DATE: February 16, 2006

The Nacimiento project TSG has now discussed the Commission’s desire for an objective analysis of the governance options several times. At each meeting, the discussions were spirited and centered mostly on what format would be best to present the information. Considerable time was also expended attempting to identify what objectives should be included in the analysis. When all was said and done, it was decided by the TSG that the attached matrix would best provide the objective analysis of the Commission.

In reviewing the matrix, it is important to recognize that there is no weighting or value placed on each of the objectives and their rankings, nor is it possible to just count up the pros and cons to determine which governmental structure would best serve the needs of the Commission. The “value” of each of the objectives and their relative importance must be determined through discussion and consideration by the Commission.

Finally, through our discussions, it became clear that perhaps the primary distinction between the two studied forms of governance, Lead Agency/Commission or Joint Powers Authority, really centers around who makes the “final” decision on matters relative to the project budget, scope and operations. For the participating agencies, the JPA would clearly provide a greater degree of certainty relative to Commission decision making, with no opportunity for Board of Supervisors override. Whether or not this is a significant enough concern to cause the Commission to direct staff to pursue the development of a JPA given the other strengths and weaknesses of the two forms of governance is again something that must be determined through discussion and consideration by the Commission.

There is no clearly defined, analytical answer to choosing the best form of governance for this project. That said, at this time with the information available, the TSG recommends retaining the current lead agency/commission form of governance because of the advantages it does provide, and we believe no further analyses are required. Should specific contract provision issues exist with the Commission or Staff that can be addressed through amendment to the Water Delivery Entitlement Contract, then these will be addressed on an individual basis.

Governance Objectives	Lead Agency/Commission Approach			Joint Powers Authority		
	Pro	Neutral	Con	Pro	Neutral	Con
Ability to Enhance Water Quality		X			X	
Ability to Enhance Water Delivery		X			X	
Ability to Enhance Water Supply Reliability		X			X	
Ability of Legal Counsel to also Represent Interests of Participating Agencies		X			X	
Affects Tax Exempt Status		X			X	
Ability to Sue or Be Sued		X			X	
Ability to Commence Operation		X			X	
Ability of Participating Agencies to Utilize Reserve Water on an Annual Basis for their own Water Management Purposes including Groundwater Banking, Conjunctive Use, and other Needs or Desires		X			X	
Ability to Enhance Water Quality via Watershed Protection	X					X
Ability to Complete Design under Current Schedule	X					X
Utilizes Existing Staffing Resources of all Agencies to Greatest Degree Possible	X					X
Provides the Greatest Financial Resources to Support the Project Overall including Fiscal and other Resources during Emergencies	X					X
Formation costs of a JPA	X					X
Known Water Rights Pursuant to State Water Resources Control Board	X					X
Ability to Provide a Singular Focus on Project Issues			X	X		
Provides Participating Agencies with the Greatest Control over Project Issues Including Hiring of Staff, Consultants, Executing Contracts, Budgets			X	X		



Nacimiento Project Commission
February 16, 2006
Agenda Item VI.a – Election of Commission Officers
(Commission Action Required; No Subsequent Board Action Required)

TO: Nacimiento Project Commission
FROM: John R. Hollenbeck, P.E., Nacimiento Project Manager
VIA: Noel King, Director, Department of Public Works
DATE: February 16, 2006

Recommendation

Recommended that the Commission nominate and vote on a Chair and Vice-Chair to lead the Commission for the period February 2006 until the first Commission meeting in 2007 (anticipated being in February 2007).

Discussion

In accordance with the Commission's adopted Rules of Procedure, the Commission is to elect a Chair and Vice-Chair at the first meeting of each calendar year. Terms of office are for one year.

Supervisor Harry Ovitt now serves as Committee Chair and Mayor Dave Romero as Committee Vice-Chair.

Other Agency Involvement

The Commission is comprised of membership from the four Initial Participants and the District. Interaction with other agencies is common, including Monterey County Water Resources Agency, and other local municipal and community agencies.

Financial Considerations

None

Results

Approval of the recommended action will result in continued leadership on this important governing authority.

Nacimiento Project Commission
February 16, 2006
Agenda Item VI.b – No-Cost Easement for Participant-Owned Land
(Commission Action Required; No Subsequent Board Action Required)

TO: Nacimiento Project Commission
FROM: John R. Hollenbeck, P.E., Nacimiento Project Manager
VIA: Noel King, Director, Department of Public Works
DATE: February 16, 2006

Recommendation

The Project Manager and the TSG recommend leaving the Water Delivery Entitlement Contract unchanged, and let the practice of granting no-cost easement by the Initial and New Participants be a naturally occurring form of business practice; however, your Commission input is sought.

Discussion

Some Project features (pipeline, pump stations, and tanks) ultimately will traverse property owned by some of the Participants and under the jurisdiction of the County. A portion of the pipeline currently passes through lands owned by the City of Paso Robles, Atascadero Mutual Water Company, and the City of San Luis Obispo. Each of these agencies have advised that their governing bodies generally support offering no-cost easements to the Project, and each await the detailed legal descriptions and easement documents before making a final decision on this matter. The Project overall is very much appreciative of this right-of-way approach to easement acquisition.

At the February 2006, Technical Support Group meeting, the question arose “Should New Participants be required through contract provisions to grant no-cost easements in the event that project facilities impact properties under their ownership?”

At first examination, this appears to be keeping with current Participant practice; however, it was pointed out that *requiring* such a provision may put a different tone on Project participation. Further, potential participants such as Camp Roberts and Santa Margarita Ranch may view this provision as overly burdensome when comparing affected acreage to their anticipated level of participation. In the example of Camp Roberts, Staff presumes (we would investigate this further if necessary) that the military policy would prohibit the out-right waiver of fees for land easement, and this could jeopardize their participation if they were serious in joining the Project.

Several alternative approaches were discussed at the TSG meeting, which include:

1. Amend the Water Delivery Entitlement Contract to require granting of no-cost easements.

2. Leave the Water Delivery Entitlement Contract as-is in this regard (i.e. remain silent on granting of easements) and encourage New Participants through negotiations to volunteer no-cost easements where applicable.
3. Amend the Water Delivery Entitlement Contract to require granting of no-cost easements under certain conditions (such as minimal participation level relative to impacted acreage).

Other Agency Involvement

Potential New Participants to the Project would be presented with the policy adopted by your Commission, and the policy may impact their decision to participate in the Project.

Financial Considerations

The Project, which is ultimately all of the contractual Participants, would benefit by seeing reduced rights-of-way costs. The individual Participants would not, however, see any revenue from the use of their lands by the Project.

Results

Approval of the recommended action will provide flexibility in the negotiations by Staff and the Commission with potential New Participants, and also gives the Initial Participants flexibility in understanding the practice of offering no-cost easements.

Nacimiento Project Commission
February 16, 2006
Agenda Item VII.a – Appraiser Services
(Commission Action Required; Subsequent Board Action)

TO: Nacimiento Project Commission

FROM: John R. Hollenbeck, P.E., Nacimiento Project Manager

VIA: Noel King, Director, Department of Public Works

DATE: February 16, 2006

Recommendation

Approve an increase in the Right-of-Way Consulting Services line item budget from \$190,000 to \$300,000 with the additional funds coming from the Design Phase Budget Reserve line item budget, and authorize the Project Manager to negotiate Appraiser Services with both Schenberger, Taylor, McCormick and Jecker, Inc. (STMJ), and Reeder, Gilman & Borgquist (RGB), working together to meet project schedule requirements, for a total not-to-exceed fee of \$214,000 in aggregate, including contingency, and to submit their agreements to the District's Board of Supervisors for approval. If, however, the negotiations with either firm fail, then it is expected that the fee negotiated with the other firm would remain below the recommended revised line item budget.

Discussion

As discussed with the Commission in December, 2005, appraisal services are to be provided by the firms of STMJ and RGB. Your Commission directed staff to negotiate a split of the work to these firms. A detailed scope of work request was submitted to the firms, and they were asked to provide a fee proposal as outlined below:

- STMJ shall provide appraisal services (for about 21 parcels) relating to properties owned by the Monterey County Water Resources Agency, Rabbit Ridge Winery, properties fronting along Templeton Road including the Rolling A horse ranch and the Davis properties, the southernmost Salinas River crossing, and properties south of Cuesta tunnel. Their updated proposed fee dated February 1, 2006, is about \$90,000, and their contingency fee is about an additional \$35,000 (assumes ten additional parcels).
- RGB shall provide appraisal services for the remainder of affected properties (about 41 parcels). This includes State-owned and Central Coast Water Authority-owned properties near the Cuesta tank site. They will review the District's overall budget for property acquisition and render an opinion as to its adequacy given the nature and number of easements to be acquired. They also would review the appraisal summary reports from the US Army Corps of Engineers for property on Camp Roberts, Camp San Luis, and the Salinas Project Booster



Pump Station. Their updated proposed fee dated February 7, 2006, without contingency, is about \$105,000, and their contingency fee is \$20,000 (assumes ten additional parcels).

Fee proposals from both firms, excluding their contingency, totals to \$195,000 which is above the \$190,000 budget limits authorized by your Commission in December 2005, and the contingency added to this base fee causes the budget authorization to be further exceeded.

Staff has analyzed these proposals individually, and has the following observations.

- The current RGB fee is substantially greater than is predicted from analysis of their October 5, 2005, proposal. Their current proposal indicates many changes over their October 2005 submittal, including:
 - Hourly consulting rate increased from \$250 per hour to \$275 per hour.
 - Parcel appraisal fees increased from \$1,500 to \$2,000 per parcel.

Staff's predictions, using RGB's October 2005 proposal, would indicate the revised base fee for the reduced scope of work should have been nominally \$83,000, a difference of \$22,000 compared to their current fee estimate.

Staff is continuing negotiations with RGB to ascertain the reasons for differences with their proposals. RGB did agree to revisit their current proposal relative to their October 2005 submittal; however, as of the publishing of this Commission Packet, they have not responded to Staff's attempts to discuss and reconcile these differences. This report, therefore, was crafted based on the best available information at the time. Any further developments between publishing of this report and the Commission meeting will be presented verbally at the meeting.

- STMJ's hourly and per-parcel fee remained unchanged from their October 2005 and their February 2006, proposals.
- RGB is requesting a lump-sum billing for each parcel appraised, whereas STMJ is requesting time-and-material billing.

Since the new RGB is significantly higher from a unit-perspective, Staff has analyzed various alternative scenarios for the Commission to consider.

Scenario	STMJ Fee Estimate	RGB Fee Estimate	Total Fee Estimate
1 – Hire both firms based on the new proposals	\$90,000 base <u>\$35,000 contingency</u> \$125,000 total	\$105,000 base <u>\$20,000 contingency</u> \$125,000 total	\$195,000 base <u>\$55,000 contingency</u> \$250,000 total
2 – Hire STMJ only (fee is estimated based on evaluation of proposal)	\$253,000 base <u>\$35,000 contingency</u> \$288,000 total	N/A	\$253,000 base <u>\$35,000 contingency</u> \$288,000 total
3 – Hire RGB only (fee is estimated based on evaluation of proposal)	N/A	\$167,000base <u>\$20,000 contingency</u> \$187,000 total	\$167,000base <u>\$20,000 contingency</u> \$187,000 total
4 – Hire both firms at their base fee, but only utilize \$35,000 contingency combined for both firms	\$90,000 base <u>Contingency (see total)</u> See Total	\$105,000 base <u>Contingency (see total)</u> See total	\$195,000 base <u>\$35,000 cont. combined</u> \$230,000 total
5 – Hire both firms at their base fee, but only utilize a combined 10% Contingency	\$90,000 base <u>\$9,000 contingency</u> \$99,000 total	\$105,000 base <u>\$10,000 contingency</u> \$115,000 total	\$195,000 base <u>\$19,000 contingency</u> \$214,000 total



Staff asked both firms to provide a contingency estimate based on appraisal of ten additional parcels (to account for uncertainty as to the final parcel count). Scenario 4 is a subset of Scenario 1, and is a plausible condition because the additional work could be given to either firm, and also it is not anticipated that 20 parcels would be added to the parcel list. Scenario 4 did consider the larger of the two firm's contingency value. Scenario 5 evolved from development of Scenario 4, and employs a nominal 10-percent contingency for each firm. Scenario 5 is Staff's recommendation to the Commission.

Staff's recent experience with RGB has been problematic, with slow response time to inquiries and presently no return of calls or correspondence to ascertain the discrepancies between their proposals. Staff's experience with STMJ has been, and continues to be, exceptional with their office responding quickly to all inquires. Based on this professional interaction, Staff would expect more efficient business relations with STMJ; however, their total fee if they performed the project wholly is about \$75,000 greater than if the work is split amongst the two firms, and based on this financial assessment Staff recommends continuing to proceed with engaging both firms.

Other Agency Involvement

One parcel of land that the Project will obtain in fee is owned by Monterey County Water Resources Agency.

Parcels owned by the Participants and the District will not need to be appraised because the Participants have agreed to allow easement through these lands at no cost.

Parcels owned by the Corps of Engineers (Corps) through Camp Roberts will be appraised by the Corps at cost to the Project other than review of the appraised values presented.

Financial Considerations

The original budget for appraisal services was \$90,000, and at the December 15, 2005, Commission Meeting, your Commission authorized an increase to the budget of \$100,000 based on a review of the proposals received from three firms. The NWP Manager's recommendation continues to support that either of the two top-ranked firms is best qualified to perform the appraisals for the Project.

The current proposals indicate the aggregate base fee exceeds the new budget of \$190,000. Staff believes the work should also be managed with a contingency fee to account for uncertainty as the Project evolves. The scenarios presented above provide for various levels of contingency.

There are significant funds available in the Design Phase Budget Reserve line item to accommodate the recommended increased budget in the Appraisal Service line item. The recommended new line item budget for appraisal services is \$300,000, which provides sufficient funding should negotiations change from the two-firm approach to the single firm of STMJ.

Results

Approval of the recommended action will result in adding this professional resource to the Project Team so the acquisition of legal rights to cross private lands can advance in parallel with design activities. Staff believes the contract negotiations can be completed and placed before the Board of Supervisors for consideration on or before March 28, 2006.

