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Founded 1920

W. Coburn Cook, 1892-1953
Lin H. Griffith, 1923-2014

Roger K. Masuda
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*Celebrating Our
96th Anniversary*

July 18, 2016

VIA EMAIL (Elizabeth.Perkins@water.ca.gov)

California Water Commission
c/o Beth Perkins
901 P Street, Room 314
Sacramento, CA 95814

Re: July 21, 2016 Commission Meeting
Agenda Item 10, Briefing on DWR's 2016 Draft Basin Boundary Modifications
Basin ID: 3-04.10 SALINAS VALLEY – CORRAL DE TIERRA AREA, 3-04.08 SALINAS
VALLEY – SEASIDE AREA

Dear Commissioners:

Our law firm is legal counsel to the Marina Coast Water District (MCWD) and we are submitting these comments on MCWD's behalf.

Monterey Peninsula Water Management District (MPWMD) submitted the above basin boundary request. Exhibit A to these comments is Figure 1 to MPWMD's request. MCWD supported and continues to support the basin boundary modification as specifically proposed by MPWMD. MCWD requests that you direct DWR to approve the basin boundary modifications as requested by MPWMD.

MPWMD's request included establishing the Marina Area Subbasin for that area north of the Adjudicated Seaside Basin within the existing DWR-designated Seaside Area Subbasin. The request did not include merging what is designated on Figure 1 as the "Salinas Valley Marina Area" with the "Salinas Valley Corral De Tierra Area." Exhibit B to these comments is what was posted on the DWR's Basin Boundary Modification Request System website. Note that Exhibits A and B show identical boundaries for all three groundwater subbasins.

On Friday, July 1, 2016, I received DWR's email that "DWR Releases Draft Approved Changes to California Groundwater Basin Boundaries." In checking to see whether MPWMD's request has been approved, the table contained the notation "approved, as modified." I searched the DWR website trying to find out what "as modified" meant. Not finding anything, I emailed Lauren Hersh, DWR, requesting an explanation. My email is attached as Exhibit C. I did not receive a response.

On Monday, July 11, 2016, I received a non-DWR email subject “DWR Announces Basin Boundary Adjustments and Public Workshops” for “Salinas Valley Groundwater.” Dane Mathis was the designated DWR contact person for the Salinas Valley Groundwater area. That email reminded me that I had not received a response to my July 1 email. Exhibit D is my July 11, 2016 email to Dane Mathis.

My July 11 email prompted the email string attached as Exhibit E. Charles Michael McKenzie did provide me with DWR staff’s proposed modification, which consisted of merging the Marina Area with the rest of the Corral de Tierra Subbasin not within the Adjudicated Seaside Basin. Mr. McKenzie stated the following:

So the new Monterey subbasin encompassing the old Seaside northern portion and Corral de Tierra is the modification made to the request by DWR, since the boundary modification request by MPWMD kept the northern portion of Seaside and Corral de Tierra as separate subbasins. The modification was made as the remainder of the old Seaside basin would have been too small to effectively manage as a separate groundwater basin and the USGS report showed that Seaside and Corral de Tierra were hydrogeologically connected, so the jurisdictional boundary between them was eliminated.

I would note that the Marina Area is approximately the same size as the Langley Area Subbasin of the Salinas Valley Groundwater Basin and is not significantly smaller than the Adjudicated Seaside Basin. You will see in my emails that I asked for the written DWR staff report justifying this merger, which was not in MPWMD’s request, and for a copy of the USGS report. I have received neither, which raises significant questions about administrative due process. In addition, it appears that under DWR’s Groundwater Basin Boundaries regulations, DWR only has the authority to approve or deny a basin boundary modification request. See 23 CCR § 345.2.

I have also attached Exhibit F, which is a map of the Corral de Tierra Subbasin. The area in gray, occupying approximately 50% of the Subbasin and immediately adjoining the Marina Area, is federal land owned by the Army Corps of Engineers. Creeks in this area drain directly into the Salinas River. Excluding that portion of the Corral de Tierra Subbasin to be included in the new Seaside Basin, the main water use occurs in that strip of development along the northwest side of the Monterey-Salinas Highway 68. In contrast, a majority of the Marina Area is urban, including the City of Marina, portions of the City of Seaside, the California State University, Monterey Bay, and the still active portions of Fort Ord. More importantly, the entire Marina Area is covered by MCWD’s Urban Water Management Plan, which shows that the groundwater within the Marina Area can be sustainably managed.

Attached Exhibit G is a copy of page 17 to the DWR staff report for this agenda item. Please note that the Exhibit G map is identical to the basin boundaries requested by the MPWMD.

In conclusion, MCWD requests that you direct DWR to approve the basin boundary modifications as requested by MPWMD.

Since we would only be allowed three minutes to address our concerns to the Commission, MCWD is not sending a representative to your meeting. Sacramento is a six-hour roundtrip from Marina. If the Commission staff has any questions, please don't hesitate to have them contact me.

Very truly yours,

A handwritten signature in black ink that reads "Roger K. Masuda". The signature is written in a cursive, flowing style.

Roger K. Masuda

Exhibits

cc: Keith Van Der Maaten, General Manager, Marina Coast Water District
David Stoldt, General Manager, Monterey Peninsula Water Management District
Paula Landis, Executive Officer, California Water Commission

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COMMENTS BY THE MARINA COAST WATER DISTRICT

EXHIBIT A

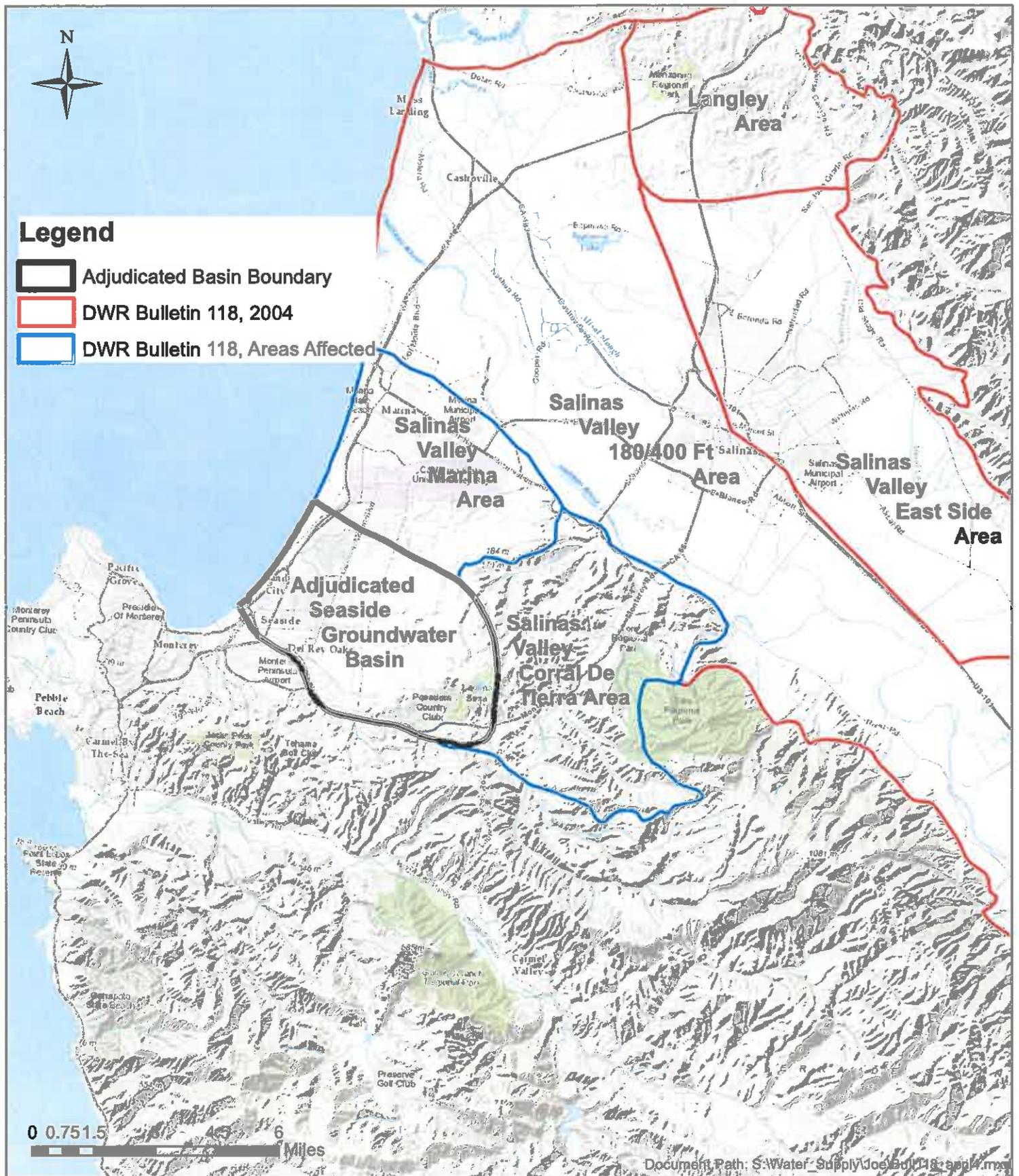


Figure 1: Regional Map showing location of Adjudicated Seaside Groundwater Basin & Affected DWR Bulletin 118 Basin Boundaries

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EXHIBIT B



Department of Water Resources
Basin Boundary Modification Request System

Monterey Peninsula Water Management District - 3-04.10 SALINAS VALLEY - CORRAL DE TIERRA AREA, 3-04.08 SALINAS VALLEY - SEASIDE AREA

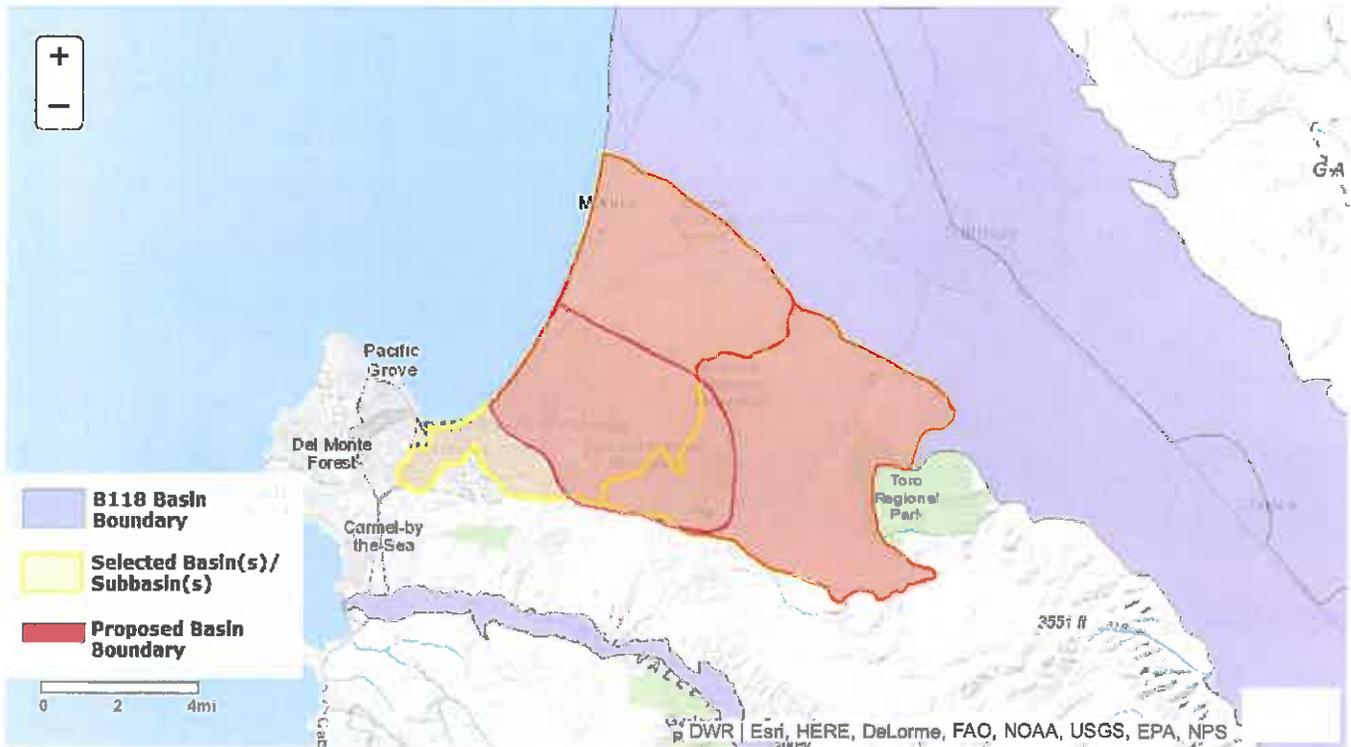
A. Applicant Information

Requesting Agency Information

Agency Name: Monterey Peninsula Water Management District
Address: P.O. Box 85
City: Monterey Zip: 93942-0085
Work Phone: (831) 658-5600 Cell Phone:
Email: joe@mpwmd.net Fax: (831) 644-9560

Revision Request Manager Information

Person Name: Joseph Oliver
Address: P.O. Box 85
City: Monterey Zip: 93942-0085
Work Phone: (831) 658-5640 Cell Phone:
Email: joe@mpwmd.net Fax: (831) 644-9560



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EXHIBIT C

Roger Masuda

From: Roger Masuda
Sent: Friday, July 01, 2016 3:50 PM
To: 'Hersh, Lauren@DWR'
Subject: RE: DWR Releases Draft of Approved Changes to California Groundwater Basin Boundaries

What does "approved, as modified" mean? Does that mean that DWR modified the requested boundary modification? If so, where do I find the specific DWR modification and the rationale for the modification?

Roger

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From: Hersh, Lauren@DWR [mailto:Lauren.Hersh@WATER.CA.GOV]
Sent: Friday, July 01, 2016 2:12 PM
To: DWR_SGMP@LISTSERV.STATE.CA.GOV
Subject: DWR Releases Draft of Approved Changes to California Groundwater Basin Boundaries



July 1, 2016

DWR Releases Draft Approved Changes to California Groundwater Basin Boundaries

SACRAMENTO – The California Department of Water Resources (DWR) today released a draft of its approved changes to California's groundwater basin boundaries, taking an essential step in implementing the historic Sustainable Groundwater Management Act (SGMA) and empowering local agencies to bring groundwater basins into sustainable patterns of pumping and recharge. SGMA initially established the basin boundaries as defined in Bulletin 118, a comprehensive report on California groundwater resources that is periodically updated by DWR. A provision of SGMA, Water Code 10722.2, established a process for local agencies to request that DWR modify those boundaries to improve coordination and promote statewide sustainable groundwater management.

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EXHIBIT D

Roger Masuda

From: Roger Masuda
Sent: Monday, July 11, 2016 8:24 PM
To: 'Dane.Mathis@water.ca.gov'
Subject: Seaside/Corral de Tierra Subbasins

Dane – Sorry to bother you, but I didn't get any response from Lauren Hersh. When I click on the Draft Approved Basin Boundary Modifications for the above modification request, the table says "Approved, as modified." However, I could not find anywhere a statement as to what was modified by DWR's own initiative so I emailed Lauren Hersh asking what was modified. Today's email below states that MPWMD's request was approved without any statement about any modifications. If DWR did make a modification or modifications to MPWMD's request, what were they and how did DWR justify each such modification. For example, did DWR make any modifications to boundary lines or names contained in the Figure 1 map submitted with MPWMD's request? Thank you.

Roger
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From: Salinas Valley Groundwater Planning [mailto:gina=cbuilding.org@mail99.suw17.mcsv.net] **On Behalf Of** Salinas Valley Groundwater Planning
Sent: Monday, July 11, 2016 2:09 PM
To: Roger Masuda <rmasuda@calwaterlaw.com>
Subject: DWR Announces Basin Boundary Adjustments and Public Workshops

DWR Announces Basin Boundary Adjustments and Public Workshops

[View this email in your browser](#)



Salinas Valley
Groundwater

The California Department of Water Resources announced The [Draft Approved Basin Boundary Modifications](#) and the [Basin Boundary Assessment Tool Map](#). See more information from DWR below.

Salinas Valley Basin Changes

Seaside/Corral de Tierra

In the Seaside / Corral de Tierra, the Monterey Peninsula Water Management District applied for a change is to mirror the Seaside adjudicated boundaries. DWR approved this boundary change.

Paso Robles Sub-Basin

In the Paso Robles sub-basin, Monterey County pursued a jurisdictional boundary change at the county line. DWR did not approve the boundary change. This means that Monterey County and San Luis Obispo County will need to coordinate groundwater sustainability management for the Paso Robles sub-basin. If each county forms a groundwater sustainability agency(ies) within its county, the groundwater sustainability agencies will coordinate their plans for groundwater management.

Pajaro Valley Unmanaged Areas

Pajaro Valley Water Management Agency indicated that they are willing to serve as the GSA for the portion of the Pajaro Valley Basin that is within their jurisdiction, which would leave *the Potentially Un-Managed Area (PUMA) at the southern portion of the basin in flux*. Discussions between MCWRA and DWR indicate that the northern boundary of the Pressure 180/400 sub-basin and Langley sub-basin boundaries were kept conterminous (i.e. sharing a boundary) with the southern boundary of the Pajaro Valley sub-basin; therefore, there is not a potentially un-managed area in the basin.

DWR News Release

The [Draft Approved Basin Boundary Modifications](#) and the [Basin Boundary Assessment Tool Map](#) are **now available** on DWR's Basin Boundary

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EXHIBIT E

Roger Masuda

From: Roger Masuda
Sent: Tuesday, July 12, 2016 9:47 AM
To: 'Godwin, Timothy@DWR'
Cc: McKenzie, Charles@DWR
Subject: RE: Seaside/Corral de Tierra Subbasins

Mr. Godwin – Did DWR prepare any written justification for its own modification to the basin boundary modification, which was contrary to MPWMD’s request? If so, please provide me with a copy. If not, please so state. Please also provide me with a copy or a website location for the USGS report cited by Mr. McKenzie. Thank you.

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From: Godwin, Timothy@DWR [mailto:Timothy.Godwin@water.ca.gov]
Sent: Tuesday, July 12, 2016 9:40 AM
To: Roger Masuda <rmasuda@calwaterlaw.com>
Cc: McKenzie, Charles@DWR <Charles.McKenzie@water.ca.gov>
Subject: RE: Seaside/Corral de Tierra Subbasins

Roger,

The basin boundary modification request submission period closed on March 31, 2016, this period allowed local agencies to submit required technical information to modify the basin boundaries. Following the completion of the submission period, the Department conducted a completeness check of the requests. This request initiated as a jurisdictional subdivision, but following discussion with the request manager it became apparent that the request to modify to account for the adjudicated area was founded on a USGS Study, and qualified as a Scientific modification type. The technical information and all other information required by the regulations is provided in the basin boundary modification request system (BBMRS) here: <http://sgma.water.ca.gov/basinmod/basinrequest/preview/24#section-J>.

The Department also evaluated the Corral de Tierra and remaining marina area of the Seaside Basin and found them to be equivalent hydrogeologic formation materials and connected basins. As Mike stated below, rather than subdividing these basins into very small units which limits the opportunities for management strategies the remaining Marina area (portion of Seaside outside the adjudicated area) and the Corral De Tierra subbasins.

Following the determination of completeness the request was opened to a 30-day public input period, also included in the BBMRS linked above. We are holding public meetings this week to hear any final comments on the Draft Basin Boundaries Mike illustrated below. The public meetings are posted on the Basin Boundary website (http://www.water.ca.gov/groundwater/sgm/basin_boundaries.cfm), but we will be discuss the South Central Region boundary modifications tomorrow:

- Clovis - Wednesday, July 13, 2016 – 2:00 PM
808 4th Street, Clovis, CA 93612
Veteran’s Memorial Building, Freedom Room

You can provide comments here for the Department to consider. We will also be presenting these recommended modification to the California Water Commission on July 21 (<https://cwc.ca.gov/Pages/Meetings.aspx>), where additional public comments can be heard.

Please let me know if you need any additional information.

Thank you,

Tim

Tim Godwin, P.G. 8055, C.H.G. 859

Engineering Geologist

(916) 651-9223 <http://www.water.ca.gov>

From: Roger Masuda [<mailto:rmasuda@calwaterlaw.com>]

Sent: Tuesday, July 12, 2016 9:11 AM

To: McKenzie, Charles@DWR

Subject: RE: Seaside/Corral de Tierra Subbasins

Thank you for your explanation. Please provide me with DWR's written justification for merging the remainder of the Seaside Subbasin with the Corral de Tierra. Please also provide me with a copy of the USGS report that you refer to. What is the procedure to protest DWR's proposed merger action?

Roger K. Masuda

Griffith & Masuda

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From: McKenzie, Charles@DWR [<mailto:Charles.McKenzie@water.ca.gov>]

Sent: Tuesday, July 12, 2016 9:01 AM

To: Roger Masuda <rmasuda@calwaterlaw.com>

Subject: Seaside/Corral de Tierra Subbasins

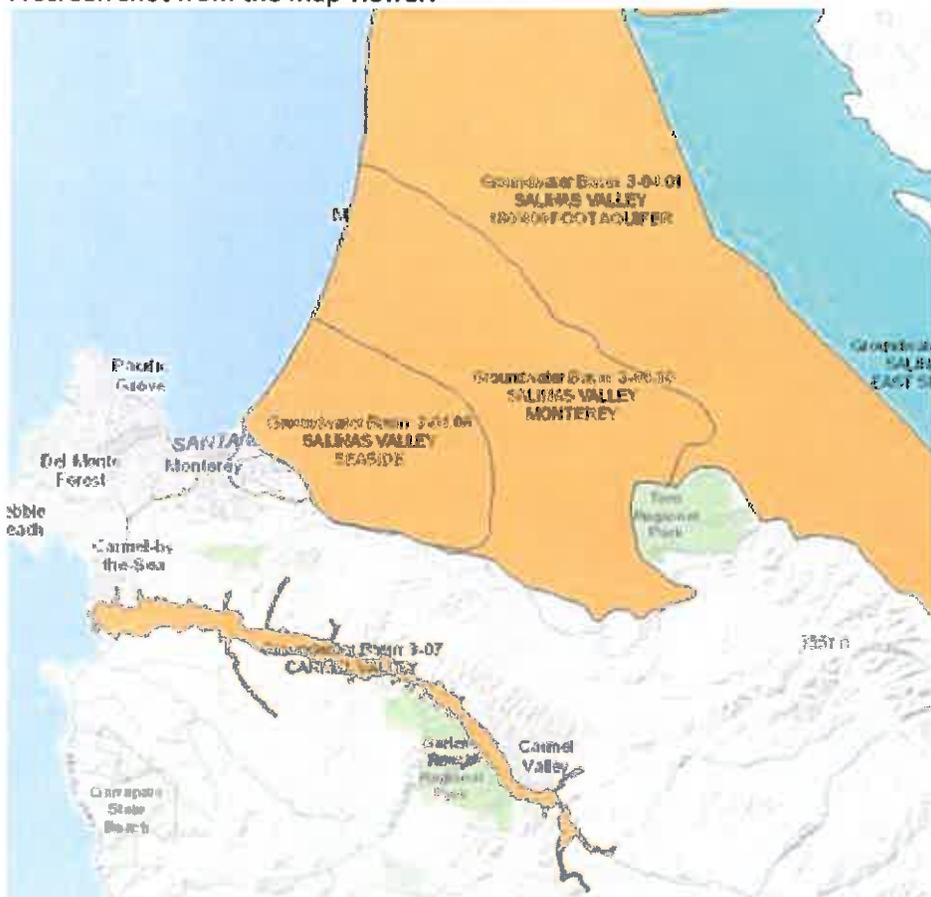
Mr. Masuda,

The Seaside subbasin is being split in 2. The adjudicated portion of the subbasin will remain as "Seaside", and the remainder of the old Seaside subbasin was merged with the Corral de Tierra basin to form the new "Monterey" subbasin.

So the new Monterey subbasin encompassing the old Seaside northern portion and Corral de Tierra is the modification made to the request by DWR, since the boundary modification request by MPWMD kept the northern portion of Seaside and Corral de Tierra as separate subbasins. The modification was made as the remainder of the old Seaside basin would have been too small to effectively manage as a separate groundwater basin and the USGS report showed that Seaside and Corral de Tierra were hydrogeologically connected, so the jurisdictional boundary between them was eliminated.

I hope this answers your questions. You can review a map of the modifications here: <https://gis.water.ca.gov/app/bbat/>

A screen shot from the map viewer:



If you have any additional questions, please do not hesitate to respond.

-Mike

C. MICHAEL MCKENZIE, P.G.
SENIOR ENGINEERING GEOLOGIST
GROUNDWATER MANAGEMENT SECTION
DEPARTMENT OF WATER RESOURCES
3374 EAST SHIELDS AVENUE
FRESNO, CALIFORNIA 93726
559.230.3308

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EXHIBIT F

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COMMENTS BY THE MARINA COAST WATER DISTRICT

EXHIBIT G

Basin ID: 3-04.10 SALINAS VALLEY - CORRAL DE TIERRA AREA, 3-04.08 SALINAS VALLEY - SEASIDE AREA

DWR Region Office: SCRO



Requesting Agency: Monterey Peninsula Water Management District, P.O. Box 85, Monterey, CA 93942-0085

Modification Category: Scientific External

Modification Overview: Basin boundary modification request to formally recognize the adjudicated Seaside Groundwater Basin

Other Affected Basins: None

Commenters: None

DWR Recommendation: Approved, as modified

Notes: _____
