



MARIPOSA COUNTY

Public Works • 209-966-2498



MEETING: August 10, 2021

TO: The Board of Supervisors

FROM: Shannon Hansen, Interim Director of Public Works & Transportation

RE: Receive a Presentation from the Water Agency Advisory Board Regarding M.I.D. Settlement

RECOMMENDATIONS AND JUSTIFICATION:

Receive a Presentation from the Water Agency Advisory Board regarding next steps in implementation of the M.I.D. Settlement.

John McCamman who is the current Chair of the Water Agency Advisory Board will do a presentation to the Board of Supervisors with considerations and recommendations for funds to be utilized according to the Settlement Agreement.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On December 17, 2019 Resolution 2019-729 the Board approved a transfer of funding resulting from the M.I.D. Settlement.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Miss the opportunity to receive a presentation.

ATTACHMENTS:

WAAB-Letter to BOS MID- Final (PDF)

RESULT: DIRECTION GIVEN

TO: BOARD OF SUPERVISORS, MARIPOSA COUNTY
FROM: WATER AGENCY ADVISORY BOARD
SUBJECT: NEXT STEPS IN IMPLEMENTATION OF M.I.D. SETTLEMENT

In December 2019, your Board took action allocating over one million of the \$1.8 million received until that time from the settlement of the Merced Irrigation District (M.I.D.) suits and underlying agreements. Of that amount, \$250,000 was set aside for a "water projects feasibility study," which would "allow the County, or the County Water Agency, to begin the process of investigating possible projects to determine which options will be most feasible and beneficial to the county." (Dec. 17, 2019 Board Report from C.A.O.).

As Chairman of the Water Agency, Kevin Cann attended the scheduled and noticed meeting of the Water Agency Advisory Board and asked for our input regarding the most appropriate use of the allocated funds. Determination of the ultimate use of those funds is up to the Board of Supervisors. Meetings were conducted on January 23 and March 5, 2020 and subsequently on May 27, 2021, to discuss the appropriate use of the allocated funds. Several alternatives were identified and are discussed below.

SETTLEMENT TERMS

- Under the M.I.D. settlement's terms, a one-time payment of \$1.5 million was received by the county for "any purpose" ;
- Annual payments of up to \$300,000 per year for up to 30 years (based on 2% of hydroelectric generation revenues) are to be received, again "for any purpose."
- The Settlement contemplates M.I.D. funding up to \$18 million to be set aside over 30 years "to develop two water resource projects at Lake McClure" (Northside and Southside projects), based on a proportion (6%) of hydroelectric revenues.
- The water supply for these projects totals up to 8,000 acre feet of water without charge, but with the same level of priority as M.I.D.'s Class II users; this last provision makes the water less reliable in low-flow years, and therefore not an assured municipal source for purposes of state regulatory requirements.
- The county shall use its best efforts to ensure that the Northside project diversion is the same as the existing diversion for the Lake Don Pedro Community Services District diversion.
- Any funds not utilized for construction of the diversion works project(s) will revert to M.I.D. and the county on a 50% basis in 2047 or pursuant to other criterion in the agreement.

There is some urgency to begin a feasibility project in the near term because permitting and construction of the diversion projects contemplated in the agreement could take the full term. The allocated \$250,000 to begin the process of identifying appro-

appropriate beneficial uses for the water made available under the agreement is an important and significant first step in this process. As of January 2021, \$166,257 remains in the MID Settlement line for "Water Projects Feasibility" (450-0140-417.04-18).

RESOURCES AVAILABLE TO THE COUNTY

The county does not have designated water or water project staff. Many various county departments, including Planning, Public Works and County Counsel certainly have roles to play in accomplishing the development of a request for proposals, initiating a contracting process, overseeing project goals and monitoring administrative details. In addition to county resources, non-county government expertise at the Mariposa Public Utilities District, the Sierra Foothills Conservancy, Mariposa Resource Conservation District and perhaps other organizations may be necessary to address the many complexities of a proposed project.

Based on prior state funding, the Mariposa Resource Conservation District along with Mariposa County and others has developed an Integrated Regional Water Management Plan (IRWM). The IRWM process has identified 51 water, waste-water and related projects with a price tag of nearly \$100 million. Projects identified in the IRWM process may qualify for funding from sources that are limited to IRWM prioritized projects, and therefore this project should be included in the next revision of the IRWM Plan.

In addition, the Water Agency Advisory Board (WAAB) discussed the appropriate role of the WAAB in implementation of the contemplated scoping and eventual selection of project(s) that move into a feasibility phase. We felt that the WAAB has important agricultural, environmental and local interests represented on the Board, and the continued input into this process would be beneficial. However, that determination is up to the Board of Supervisors.

WATER PROJECTS "FEASIBILITY" STUDY

The water projects study under review here is specifically for projects which would qualify under the very limited terms of the settlement agreement. Initial stages of an agreement with a project consultant or engineer would be prior to project feasibility and more in line with a scoping study to answer the question **"What beneficial use for water taken from Lake McClure should the county identify that would result in projects that could be constructed within the terms of the settlement agreement?"**

Elements of an agreement with consulting water engineers should include, but not be limited to:

- There are several studies over the past fifty-plus years regarding water project(s) that the county has initiated. The McCreary-Koresky (1972), Mariposa Basin Study (1978) and Tudor (1988) studies have all begun to address issues related to feasible projects, though not with the constraints imposed by the settlement agreement. These (and perhaps other studies) should be reviewed and summarized as a part of this project.

- The Settlement Agreement preserves the ability of the County to develop water resources on Bean and Maxwell Creeks. What projects further County interests in these watersheds?
- What water demands exist or will likely exist in the future which may be served by a Northside and Southside Lake McClure diversion? What is the beneficial use?
- Are such projects practicable and feasible?
- What would be the range of costs for such project(s)? What funding sources are available to begin the project level planning?
- What implications do such project(s) have on the future economic development of the county?
- What next steps should be taken to ensure project completion?

OTHER CONSIDERATIONS

It may be important to note that the \$250,000 initially allocated and the remaining \$166,257 is not constrained under the settlement agreement. These funds may be used for any general fund purpose and there are many important water projects that should at some point be addressed.

It is likely that not all of the allocated funds will be utilized to accomplish this initial scoping. Any funds remaining after the initial project scoping should be retained for next steps in addressing settlement diversions. In addition, it is likely that any projects that emanate from such a study will have costs, including water storage and transport costs, that cannot be funded from the \$18 million projects budget. Therefore, the Water Agency Advisory Board urges the Board to not commit other settlement funds until such time as the full scope of feasible projects is understood.

At our meeting of May 27, the WAAB determined that the lack of dedicated resources staff in the County is a constraint on identifying potential funding sources, on keeping the Board apprised of important water-related legislation and state regulatory actions, and on active county participation in water related project development. As a consequence, we have determined to meet quarterly and to engage more actively in water policy at the state and local levels.

The Board of Supervisors may want to engage in further discussion concerning the appropriate staffing required to address natural resource related issues more generally, due to the importance of forestry, mining, fish and wildlife and importantly water resources to the County.

RECOMMENDED ACTIONS

1. Determine to proceed with an initial scoping of potential water projects for a water projects feasibility study consistent with the M.I.D. Settlement terms, including on Bean and Maxwell Creeks;
2. Determine to limit the future use of M.I.D. settlement funds to water development and water related projects, not for wastewater projects;
3. The statutory language establishing the Water Agency Advisory Board is limited to advising on the use of prior (not current) M.I.D. settlements. The Board of Supervisors should consider expanding the role of the Advisory Board to ensure continuing participation in water planning efforts countywide.