

RESOLUTION NO. 2018-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA FORMING A GROUNDWATER SUSTAINABILITY AGENCY (GSA) AND UNDERTAKE SUSTAINABLE GROUNDWATER MANAGEMENT WITHIN THE PORTION OF THE SALINAS VALLEY GROUNDWATER BASIN 180/400 FOOT AQUIFER SUBBASIN WITH THE CITY AND OUTSIDE THE MARINA COAST WATER DISTRICT SERVICE AREA, AND AUTHORIZE FILING NOTICE OF GSA FORMATION WITH THE CALIFORNIA DEPARTMENT OF WATER RESOURCES (DWR) PURSUANT TO WATER CODE SECTION 10723.8(a), AND AUTHORIZE AND DIRECT THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT NOTICE OF ADOPTION OF THIS RESOLUTION IN ADDITION TO ALL INFORMATION REQUIRED BY THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA), INCLUDING BUT NOT LIMITED TO, ALL INFORMATION REQUIRED BY WATER CODE SECTION 10723.4 AND A LIST OF INTERESTED PARTIES AS DESCRIBED IN WATER CODE SECTION 10723.8(A)(4), AND AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH OTHER FURTHER ACTIONS AS MAY BE NECESSARY TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION, AND FIND THAT THE ADOPTION OF THE RESOLUTION IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (PUBLIC RESOURCE CODE SECTION 21000 ET SEQ.) (CEQA) PURSUANT TO SECTION 15061(B)(3) OF THE CEQA GUIDELINES.

WHEREAS, the Sustainable Groundwater Management Act of 2014, Water Code Sections 10720 – 10736.6 (“SGMA”) was signed into law on September 16, 2014; and

WHEREAS, SGMA requires that each California groundwater subbasin be managed by a single Groundwater Sustainability Agency (“GSA”) or by a combination of GSAs and that such management be implemented pursuant to an approved Groundwater Sustainability Plan, or multiple coordinated GSP’s, as the case may be; and

WHEREAS, the legislative intent of the Sustainable Groundwater Management Act is to provide for sustainable management of groundwater subbasins, to enhance local management of groundwater, to establish minimum standards for sustainable groundwater management, and to provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater; and

WHEREAS, Water Code Section 10723(a) authorizes any local agency with a service area overlying a groundwater subbasin or portion thereof to establish itself as the GSA for its service area; and

WHEREAS, Water Code Section 10721(j) defines a GSA as one or more local agencies that implement the provisions of SGMA; and

WHEREAS, the City’s jurisdictional boundaries overlie a portion of the 180/400 Foot Aquifer Subbasin of the Salinas Valley Groundwater Basin; and

WHEREAS, City staff is proposing that the City become the GSA whose boundaries would encompass Monterey County Assessor Parcel Numbers (APN) 203-011-001; 203-011-019; 203-011-020; and 203-011-011 (See Exhibit “A”); and

WHEREAS, prior to adopting a resolution of intent to establish the City as a GSA, Water Code Section 10723 requires a local agency to hold a public hearing, after publication of notice pursuant to Government Code Section 6066, on whether or not to adopt a resolution to establish a GSA; and

WHEREAS, the notice for the public hearing was published on Thursday, March 1, 2018 and Thursday, March 8, 2018; and

WHEREAS, said public hearing was held on March 20, 2018; and

WHEREAS, the City is committed to the sustainable management of groundwater within the Salinas Valley Ground Water Basin 180/400 Foot Aquifer Subbasin and intends to coordinate with the other GSAs and affected parties and consider the interests of all beneficial users and uses of groundwater within the 180/400 Foot Aquifer Subbasin.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby:

1. Form a Groundwater Sustainability Agency (GSA) and undertake sustainable groundwater management within the portion of the Salinas Valley Ground Water Basin 180/400 Foot Aquifer Subbasin within the City and outside of the Marina Coast Water District service area. A map of the GSA Boundary is attached hereto as Exhibit A and incorporated herein.
2. Authorize filing notice of GSA formation with the California Department of Water Resources (DWR) pursuant to Water Code Section 10723.8(a).
3. Authorize and direct the City Manager or his designee to submit notice of adoption of this Resolution in addition to all information required by the SGMA, including but not limited to, all information required by Water Code Section 10723.8 to the California Department of Water Resources, and to support the development and maintenance of an interested persons list as described in Water Code Section 10723.4 and a list of interested parties as described in Water Code Section 10723.8(a)(4).
4. Authorize the City Manager or his designee to take such other and further actions as may be necessary to effectuate the purposes of this Resolution.
5. Find that that the adoption of this Resolution is exempt from the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (CEQA) pursuant to Section 15061(b)(3) of the CEQA guidelines.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 20th day of March 2018, by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Morton, O'Connell, Brown, Delgado

NOES, COUNCIL MEMBERS: None

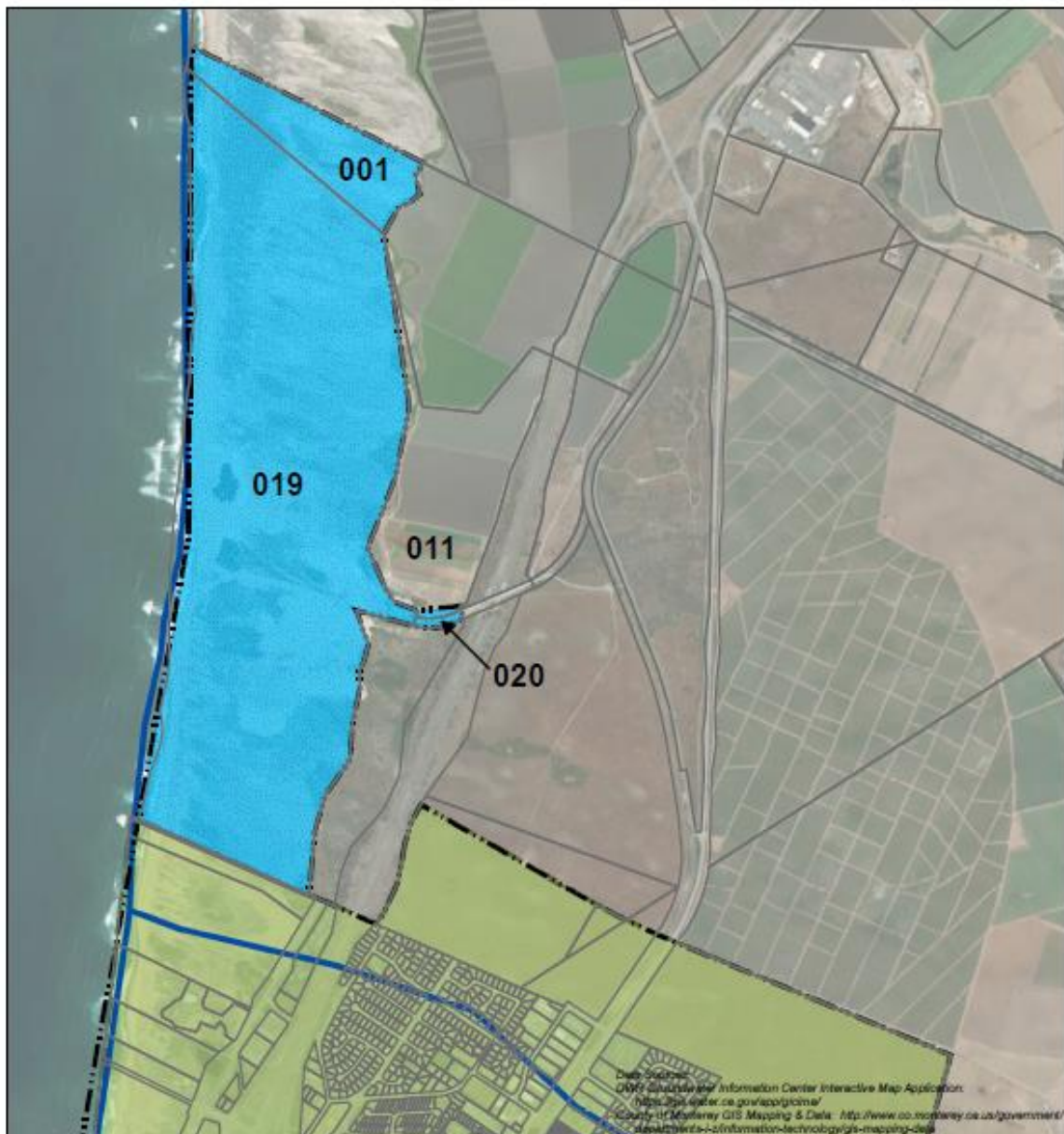
ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

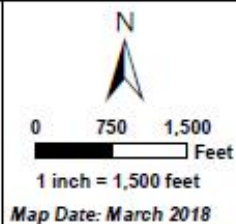
ATTEST:

Anita Sharp, Deputy City Clerk



Proposed City of Marina Groundwater Sustainability Agency

-  Proposed City of Marina GSA
-  Existing Marina Coast Water District GSA
-  Bulletin 118 Groundwater Basin Boundary
-  City of Marina Limits



Map Date: March 2018

Procedure for Forming a Groundwater Sustainability Agency (“GSA”)

Step 1. Preparation of Staff Report. Prior to scheduling a public hearing on forming a GSA, City staff will need to compile the following information into a staff report.

- A. A description of the City’s proposed GSA boundaries.
- B. The name of the Subbasin or portion thereof proposing to be managed by the GSA:
The 180/400 Foot Aquifer Subbasin of the Salinas Valley Groundwater Basin.
- C. Any other GSA’s operating within the basin.
- D. Prepare a map that shows the lands within the city limits proposed to be included within the portion of the 180/400 Foot Aquifer Subbasin the GSA has elected to manage.
- E. A list of interested parties developed pursuant to Water Code Section 10723.2 and an explanation of how their interests will be considered in the development and operation of the GSA and the development and implementation of the agency’s sustainability plan, including:
 - 1. Local Water Districts within or adjoining the GSA:
 - a. Marina Coast Water District
 - 2. Holders of Overlying Groundwater Rights: agricultural and domestic well owners, municipal well operators and public water systems
 - a. Armstrong Ranch
 - b. CEMEX
 - 3. Surface Water Users
 - a. Monterey One Water and Monterey County Water Resources Agency for the Castroville Seawater Intrusion Project
 - 4. Environmental Users of groundwater:
 - a. Fort Ord Dunes State Park
 - b. Marina Beach State Park
 - 5. Local Land Use Planning Agencies:
 - a. City of Marina
 - b. County of Monterey
 - 6. Federal Government:
 - a. None within the City’s proposed GSA management area.
 - 7. California Native American Tribes:
None within the City’s proposed GSA management area.
 - 8. Disadvantaged Communities:
 - a. None identified

9. Entities listed in California Water Code Section 10927 that are monitoring and reporting groundwater elevations in all or part of the basins to be managed by the City as the designated GSA:
 - a. Monterey County Water Resources Agency
10. Other Entities:
 - a. Salinas Valley Groundwater Basin GSA
 - b. Marina Coast Water District GSA
 - c. GSAs that may be formed to manage other portions of the 180/400 Foot Aquifer Subbasin

Step 2. Noticing and Holding a Public Hearing. A public hearing must be noticed and held by the City on consideration to form a GSA. The public hearing must be noticed by publication in a newspaper of general circulation (published in the effected territory once a week or more). The notice must be published twice, with at least 5 days running in between each publication.

Step 3. Adopting a Resolution electing to become a GSA at the public hearing. At the public hearing, the City will adopt a resolution electing to become a GSA.

Step 4. Filing Notice of GSA Formation with DWR pursuant to Water Code Section 10723.8(a). Within 30 days from the adoption of the resolution, the notice of GSA formation package, which includes the following must be submitted via email or hard copy to Mark Nordberg, DWR GSA Project Manager. The GSA package includes the following (most of which will have already been prepared by the time of transmission):

A. Information that clearly shows the GSA formation notice was filed with DWR within 30 days of the decision to become or form a GSA – the decision date is generally the date the City adopted the resolution that formed the GSA.

B. Items A, B, C, and D (including a GIS shape file) listed under Step 1.

C. A copy of the resolution forming the new GSA.

D. A copy of any new bylaws, ordinances, or new authorities adopted by the local agency, if any.

E. Item E listed under Step 1.

F. A statement by the authorized representative that all applicable information required by Section 10723.8(a) is being provided to DWR.

G. A copy of the published notice of the public hearing and evidence that the required public hearing was held.

H. DWR welcomes additional information showing that the proposed GSA has the long-term technical, managerial, and financial capabilities to sustainably manage groundwater resources and prepare a groundwater sustainability plan for the Subbasin.

**NOTICE OF PUBLIC HEARING
City of Marina**

Notice is hereby given that City of Marina will hold a public hearing regarding the adoption of a Resolution of Intention to form a Groundwater Sustainability Agency (GSA) as outlined in the California Water Code, Part 2.74, Sustainable Groundwater Management Act, Section 10723. The proposed GSA boundaries would encompass Monterey County Assessor Parcel Numbers (APN) 203-011-001; 203-011-019; 203-011-020; and portions of APN 203-011-023; 175-011-046; 175-011-031; and 203-011-011. The public hearing is intended to review, provide explanation of, and allow for public input on the formation of one GSA by the City of Marina within the proposed boundaries.

The public hearing for the proposed formation of the GSA shall be held at the following date, time, and place:

Tuesday, March 20, 2018, at 6:30 pm
Marina City Council Chambers,
211 Hillcrest Avenue, Marina, CA 93933

If you need special assistance to participate in this public hearing, please contact the City of Marina at (831) 884-1278. Notification 48 hours prior to the hearing will enable the City of Marina to make reasonable arrangements to ensure accessibility to this public hearing. [28 CFR 35.102-35.104 ADA Title II]

FOR ADDITIONAL INFORMATION CONTACT:

Layne Long, City Manager
City of Marina
211 Hillcrest Ave., Marina, CA 93933
(831) 884-1278 or llong@cityofmarina.org

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of March 20, 2018

CITY COUNCIL OPEN PUBLIC HEARING, TAKE ANY TESTIMONY FROM THE PUBLIC, AND CONSIDER ADOPTING RESOLUTION NO. 2018-, FORMING A GROUNDWATER SUSTAINABILITY AGENCY (GSA) AND UNDERTAKE SUSTAINABLE GROUNDWATER MANAGEMENT WITHIN THE PORTION OF THE SALINAS VALLEY GROUNDWATER BASIN 180/400 FOOT AQUIFER SUBBASIN WITH THE CITY AND OUTSIDE THE MARINA COAST WATER DISTRICT SERVICE AREA, AND AUTHORIZE FILING NOTICE OF GSA FORMATION WITH THE CALIFORNIA DEPARTMENT OF WATER RESOURCES (DWR) PURSUANT TO WATER CODE SECTION 10723.8(a), AND AUTHORIZE AND DIRECT THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT NOTICE OF ADOPTION OF THE RESOLUTION IN ADDITION TO ALL INFORMATION REQUIRED BY THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA), INCLUDING BUT NOT LIMITED TO, ALL INFORMATION REQUIRED BY WATER CODE SECTION 10723.4 AND A LIST OF INTERESTED PARTIES AS DESCRIBED IN WATER CODE SECTION 10723.8(A)(4), AND AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH OTHER FURTHER ACTIONS AS MAY BE NECESSARY TO EFFECTUATE THE PURPOSE OF THE RESOLUTION, AND FIND THAT THE ADOPTION OF THE RESOLUTION IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (PUBLIC RESOURCE CODE SECTION 21000 ET SEQ.) (CEQA) PURSUANT TO SECTION 15061(B)(3) OF THE CEQA GUIDELINES.

REQUEST:

It is requested that City Council consider:

1. Open public hearing and take any testimony from the public; and
2. Consider adopting Resolution No. 2018-, forming a Groundwater Sustainability Agency (GSA) and undertake sustainable groundwater management within the portion of the Salinas Valley Ground Water Basin 180/400 Foot Aquifer Subbasin within the City and outside of the Marina Coast Water District service area. A map of the GSA Boundary is attached hereto as Exhibit A and incorporated herein.
3. Authorize filing notice of GSA formation with the California Department of Water Resources (DWR) pursuant to Water Code Section 10723.8(a).
4. Authorize and direct the City Manager or his designee to submit notice of adoption of this Resolution in addition to all information required by the Sustainable Groundwater Management Act (SGMA), including but not limited to, all information required by Water Code Section 10723.8 to the California Department of Water Resources, and to support the development and maintenance of an interested persons list as described in Water Code Section 10723.4 and a list of interested parties as described in Water Code Section 10723.8(a)(4).
5. Authorize the City Manager or his designee to take such other and further actions as may be necessary to effectuate the purposes of the Resolution.

6. Find that the adoption of the Resolution is exempt from the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (CEQA) pursuant to Section 15061(b)(3) of the CEQA guidelines.

BACKGROUND:

In September 2014, Governor Brown signed historic legislation requiring that California's critical groundwater resources be sustainably managed by local agencies. The Sustainable Groundwater Management Act (SGMA) gives local agencies including cities, counties and water districts or agencies, authority to sustainably manage groundwater over the long-term. Water Code Section 10721(n) defines local agency as "a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin." Therefore, the City of Marina qualifies as a SGMA local agency since it has land use responsibilities within the Salinas Valley Groundwater Basin.

To avoid State intervention by the State Water Resources Control Board, SGMA Water Code Section 10735.2(a)(1) requires the formation by June 30, 2017 of a new GSA for each medium and high-priority groundwater subbasin as designated by the DWR. There does not appear to be a SGMA requirement that all GSAs must be formed by June 30, 2017, only to avoid State intervention. Please see discussion below of "City's Independent Police Power to Regulate Groundwater within its City Limits."

If the City elects to form a GSA, the City must hold a public hearing and submit a Notice of Intent and certain other information to the DWR within 30 days of electing to be a GSA. DWR has 15 days to post the Notice of Intent and ninety days after posting notice with DWR, the GSA is presumed to be the GSA unless the filing is contested.

Lands Proposed to be Included within the City's GSA. In the Bulletin 118 Interim 2016 Update, the California Department of Water Resources officially designated eight subbasins of the Salinas Valley Groundwater Basin (SVGB). The City of Marina is within the 180/400 Foot Aquifer Subbasin and the Monterey Subbasin. **EXHIBIT "A"** shows relevant portions of those two subbasins and land proposed to be included within the City's GSA boundaries.

Marina Coast Water District in its Coordination Agreement with the Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA) retains the responsibility to manage the groundwater within MCWD's service area within the Monterey Subbasin and the Salinas Valley 180/400 Foot Aquifer Subbasin. Therefore, staff is recommending that the City's proposed GSA boundaries only include the following lands within the Salinas Valley 180/400 Foot Aquifer Subbasin and City limits that are not within the MCWD service area: Monterey County Assessor Parcel Numbers (APN) 203-011-001; 203-011-019; 203-011-020; and portions of APN 203-011-023; 175-011-046; 175-011-031; and 203-011-011.

If the City elects to form the GSA, the City will need to enter into a Coordination Agreement with the SVBGSA and MCWD for management of the 180/400 Foot Aquifer Subbasin.

GSA Responsibilities. The GSA is required to assess the conditions in its local subbasin and to adopt a locally-based groundwater sustainability plan (GS Plan). The cornerstone of SGMA is the development and adoption of a GS Plan by a GSA or coordinated GS Plans by a collection of GSAs. The SGMA-compliant GS Plan for the critically over drafted 180/400 Foot Aquifer Subbasin must be adopted by January 31, 2020, or be subject to State Water Resources Control Board intervention pursuant to Water Code Section 10735.2(a)(2). The GS Plan must be designed to achieve basin sustainability within 20 years of adoption. SGMA defines sustainable management as managing and using groundwater in a way that can be sustained over a long period of time. Sustainable yield is defined as the amount of groundwater that can be withdrawn annually without causing "significant and unreasonable impacts" related to any of the following "undesirable results": chronically lowering groundwater levels, causing seawater intrusion, degrading water quality, causing land subsidence or depleting interconnected surface water including creeks, streams and rivers.

GSA Authority. SGMA empowers GSA's to use a number of new management tools to achieve the sustainability goal. GSA's may conduct investigations, require registration of groundwater wells, determine the sustainable yield of a basin, measure and limit groundwater extractions, assess fees for groundwater management, and enforce the terms of a GS Plan.

Procedure for Forming a GSA is set forth in attached **EXHIBIT “B.”**

City’s Independent Police Power to Regulate Groundwater within its City Limits. In Baldwin v. County of Tehama (1994), 31 Cal.App.4th 166, the Court of Appeals cited to the State Constitution Article XI, Section 7, which provides that a city or county “may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” The Court then held that “there is no tenable claim that the subject of groundwater is outside the purview of municipal legislation.” And further, “[s]ince the field of groundwater use is within the municipal police power, a local ordinance may be enacted subject to the constitutional constraints applicable to all legislation, unless the power so to do has been preempted by state legislation, i.e., only if it conflicts with general law.” 31 Cal.App.4th at 173.

The plaintiff in Baldwin argued that the entire field of groundwater regulation had been occupied by state law, wholly precluding municipal regulation. The Court held in 1994 that the then state law had not preempted the field of groundwater extraction because the existing statutes did not convey the intent to preclude other regulation and did not provide complete coverage of the field. It could be argued that SGMA wholly precludes municipal regulation of groundwater. However, SGMA Water Code Section 10726.8(a) states, “This part is in addition to, and not a limitation on, the authority granted to a local agency under any other law. The local agency may use the local agency’s authority under any other law to apply and enforce any requirements of this part, including, but not limited to, the collection of fees.” Therefore, the City may regulate groundwater within its city limits pursuant to its municipal police powers independent of SGMA.

In addition to the formation of a GSA for the above identified lands within the City limit, staff is recommending that the City Council also consider subsequently adopting a groundwater management ordinance for those same lands to further reinforce the City’s legal authority to regulate groundwater. If the City Council directs staff to prepare a draft groundwater management ordinance, the preparation, review, and adoption of any such ordinance can proceed independently from the formation of the City GSA.

ANALYSIS:

The City currently has authority for review and approval of land uses within the City limits which includes lands within the proposed GSA boundary. The City is also in the process of revising the Local Coastal Program that would give the City authority to review developments within the proposed GSA boundaries which are within the Coastal Zone. Formation of the GSA would give the City the authority to regulate groundwater uses within the GSA boundary.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The action is exempt from the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (CEQA) pursuant to Section 15061(b)(3) of the CEQA guidelines.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Brian McMinn, P.E., P.L.S.
Public Works Director/City Engineer
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina