



## April 2021 NEWSLETTER

### NRWMAC vs Monterey County

This past year has been a struggle for all. Lake Nacimiento is a go-to haven for locals as well as visitors and more than ever we need our lake to be thriving. Although spring has arrived, the rain from this last winter wasn't adequate to bring the lake level back to where we need it to be. Now, to make matters worse — **Monterey County has started large releases of water again!**

### We Need Proper Water Management RIGHT NOW!

The NRWMAC lawsuit moved ahead throughout 2020 and in recent months, and we held off several attempts by Monterey to crush our legal team's efforts. Monterey failed in its demurrer (a response in a court proceeding in which the defendant does not dispute the truth of the allegation but claims it is not sufficient grounds to justify legal action) in two causes of action: **1) breach of contract**, and **2) violating the state permit to operate the dam**. These are major points NRWMAC is emphasizing in its lawsuit against Monterey.

Monterey succeeded in forcing us to amend our complaint on some of our other causes of action. For example, the court sustained Monterey's objection to our cause of action for *inverse condemnation* (entitles property owners to just compensation if their property is damaged by a public use), on the grounds that: **1) NRWMAC "lacked standing,"** and **2) there was no "taking of property."**

These components are vital in our lawsuit, so in order to cure the "standing" deficiency, NRWMAC added three named plaintiffs to our second amended complaint to show their "loss" of property.

We filed our second amended complaint on March 29, 2021, in response to Monterey's demurrer, with the aim of preserving all five of our causes of action going forward. We are currently waiting for Monterey to either answer our complaint or demur to it again. If Monterey merely answers, then we advance to court with all causes of action preserved. If they demur, we will go back to court for another hearing on our respective arguments.

We have weathered the storm in court so far, we've made good headway in pursuing our case, and we're at the tipping point of success. We need your help to make this success a reality.

### We Need Your Support

Shortly, we will be back in court fighting the major battle with Monterey. It's very costly to fund our hardworking legal team. Now more than ever, we need you to support NRWMAC's efforts on your behalf. We urgently need an influx of dollar donations at this time.

The links below will take you directly to GoFundMe or PayPal Private Donation sites to conveniently make a donation. If you prefer to write a check, please make it out to NRWMAC and mail to: NRWMAC, PO BOX 398, Paso Robles, CA 93447.

**GoFundMe:**



[www.gofundme.com/lake-nacimiento-save-the-dragon](http://www.gofundme.com/lake-nacimiento-save-the-dragon)

**Private Donation:**



<http://nrwmac.org/donate#Private-Donation>

**Thank You for Supporting NRWMAC!**



**DRAFT RESERVOIR RELEASE SCHEDULE FOR 2021**

Month	Combined Releases (cfs) <sup>1</sup>	Combined Releases (ac-ft)	NACIMIENTO						Beginning of Month	
			Evap. Losses (ac-ft)	Reservoir Releases (cfs) <sup>1</sup>	Reservoir Releases (ac-ft)	NWP Orders (ac-ft)	NWP Diversions (ac-ft)	Storage (ac-ft)	(%)	Elev. (ft)
Jan	74	4,552	279	64	3,937	488	0	83,840	22%	726.6
Feb	70	4,044	379	60	3,469	806	0	154,055	41%	750.9
Mar	70	4,304	712	60	3,689	1,105		154,745	41%	751.1
Apr	502	29,862	943	343	20,430	1,092		150,976	40%	750.0
May	486	29,881	1,248	325	19,964	1,512		128,497	34%	743.0
Jun	555	33,025	1,474	373	22,166	2,143		105,460	28%	735.1
Jul	395	24,278	1,312	230	14,123	2,211		79,544	21%	724.8
Aug	70	4,304	1,143	60	3,689	2,210		61,835	16%	716.5
Sep	70	4,165	861	60	3,570	2,100		54,881	15%	712.7
Oct	70	4,304	565	60	3,689	1,268		48,409	13%	708.9
Nov	70	4,165	270	60	3,570	767		42,930	11%	705.4
Dec	70	4,304	155	60	3,689	460		38,246	10%	702.1
Jan 2021								34,527	9%	699.3
<b>Totals</b>		<b>151,190</b>	<b>9,342</b>		<b>105,986</b>	<b>16,162</b>	<b>0</b>			

**Notes:** 1. Mean daily flow for the month in cubic feet per second. 2. Shaded areas denote actual values. Non-shaded areas are projected values. 3. Lake [sic] Nacimiento Reservoir storage capacity: 377,900 acre feet. 4. Reservoir Operations Advisory Committee may make release considerations for fish spawn and holiday periods to benefit recreation. 5. Schedule assumes no inflow to reservoirs after April 1st. Actual elevations may be influenced by inflow. 6. "NWP Diversions" are San Luis Obispo County - Nacimiento Water Project conveyance facilities diversions. Max. allowable water year (Oct. 1 - Sept. 30) diversions: 15,750 ac-ft. 7. Nacimiento "NWP Diversions" do not include lakeside water use which is estimated at approximately 1,750 acre feet per year.



**Monterey Begins Water Releases**

We MUST stop Monterey’s continued water mismanagement at the lake, and we strongly believe that we will — with your help.

The latest proposed Monterey County Water Resource Agency (MCWRA) release schedule (above) shows how Lake Nacimiento will look without the proper water management that it needs. We’re in for another dry, dusty summer, and once again, Monterey is draining large volumes of water out of the lake without regard for recreational lake users, property owners, farmers, or wildlife.

**California Water Rights**

Let’s be clear about water rights. Water in California is protected for the use and benefit of all its citizens. **California's waters cannot be owned by individuals, groups, businesses, or governmental agencies.** Permits, licenses, and registrations give individuals and others the right to beneficially use reasonable amounts of water.

Monterey was first provided a grant in 1958, based on their application to develop a first-class recreation area at Lake Nacimiento, thereby making a long-term promise to promote and develop recreational facilities at Lake Nacimiento.

Monterey was again licensed in 1964, with this statement of purpose: “Recreational use at Lake Nacimiento Reservoir within San Luis Obispo County and irrigation, domestic, municipal, industrial and recreational uses within an area of Monterey County.”

In 1996, Monterey was once again granted a permit subject to prior rights that *authorized specific purposes* for using the water for irrigation, industrial, municipal, recreation, and domestic use.

There are **no percentages of water** listed in those grant rights. There is **no single group** that owns the water. In fact, there are five groups with interest rights that share the water in Lake Nacimiento and **ALL FIVE** are entitled to the water!



## The Recreation Component

The predecessor to MCWRA, the Monterey County Flood Control and Water Conservation District (the “District”), built Lake Nacimiento in the mid-1950s, for recreation, flood control, and water conservation. To begin construction, the District first had to condemn and take private properties in and around the reservoir site by eminent domain. The District had eminent domain powers under the *Monterey County Flood Control and Water Conservation District Act*. At that time, the San Luis Obispo County Board of Supervisors approved the eminent domain by Monterey because they were paying to have the dam built on San Luis Obispo county property.

In part, this Act gave the District the power to condemn “lands deemed by the supervisors of the district to be **necessary or convenient for the installation, construction, use and maintenance of recreational areas or facilities including picnic grounds, play grounds, camp grounds, home sites, boats and fishing, bathing or other facilities for use by the public...**” Therefore, the provision of recreation at the reservoir was **key** to allowing the construction to commence. (*Boldface supplied by NRWMAC for emphasis.*)

To put it simply, Monterey claimed and based recreational support at Lake Nacimiento as an *equal right* to take land. They must continue to support recreation or they can face invalidating their right to that land.

## What You Can Do

We’ve reached the moment when it's vitally important to inform anyone and everyone who is concerned about Lake Nacimiento and our legal battle to **Save the Dragon!**

We need you to pass this newsletter along to everyone you can think of who can help us obtain control of our beautiful lake’s water by making a donation or by volunteering with NRWMAC.

NRWMAC needs volunteers to help get the word out, procure time and dollar donations, sign up to help at fundraisers and events, and information stations. For more information about how you can get involved, go to:

[www.nrwmac.org/get-involved](http://www.nrwmac.org/get-involved)

Generous people like you are the **ONLY** source of funding to support NRWMAC’s efforts to correct and hold Monterey accountable for water mismanagement at Lake Nacimiento. **We urgently need you to keep supporting our efforts at this time with your dollar donations for NRWMAC's legal expenses.**

Even if you have previously donated, we are asking for your continued help, please donate any amount using the [GoFundMe](#) link, or the [PayPal Private donation](#) link, or mail a check to NRWMAC, PO BOX 398, Paso Robles, CA 93447.

## Who to Call/Contact

We need people to know about Monterey’s mismanagement of Lake Nacimiento, and our fight to correct the problems they are causing to recreation and property rights.

We encourage you to write, call, or email your elected local, state, and federal officials as well as the local press. Tell them about what is happening to our recreational water, and how the lake quality and property rights have been affected under Monterey's mismanagement. The more people we reach out to, the better our chances of succeeding in our legal pursuits and in making the changes needed at Lake Nacimiento.

NRWMAC’s “Who to Call” contact list is now on our website. It has contact information for your San Luis Obispo County supervisors, California state representatives, the California State Water Boards, Monterey County supervisors, and more. Go to:

[www.nrwmac.org/who-ya-gonna-call](http://www.nrwmac.org/who-ya-gonna-call)