



**San Bernardino Valley
Water Conservation District**
Helping Nature Store Our Water



**JOINT BOARD MEETING OF THE BOARD OF DIRECTORS OF SAN BERNARDINO
VALLEY WATER CONSERVATION DISTRICT AND THE BOARD OF DIRECTORS
OF SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT**

AGENDA

Monday, September 10, 2018 – 3:00 p.m.

Location--1630 West Redlands Boulevard, Suite A, Redlands, California

Note: Copies of staff reports and other documents relating to the items on this agenda are on file at the District office and are available for public review during normal District business hours. New information relating to agenda topics listed, received, or generated by the District after the posting of this agenda, but before the meeting, will be made available upon request at the District office and in the Agenda Package on the Districts website. It is the intention of the San Bernardino Valley Water Conservation District to comply with the Americans with Disabilities Act (ADA) in all respects. If you need special assistance with respect to the agenda or other written materials forwarded to the members of the Board for consideration at the public meeting, or if as an attendee or a participant at this meeting you will need special assistance, the District will attempt to accommodate you in every reasonable manner. Please contact Athena Monge at (909) 793-2503 at least 48 hours prior to the meeting to inform her of your particular needs and to determine if accommodation is feasible. Please advise us at that time if you will need accommodations to attend or participate in meetings on a regular basis.

**CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL**

1. PUBLIC PARTICIPATION

Members of the public may address the Board of Directors on any item that is within the jurisdiction of the Board; however, no action may be taken on any item not appearing on the agenda unless the action is otherwise authorized by Subdivision (b) Section 54954.2 of the Government Code.

2. ADDITIONS/DELETIONS TO AGENDA

Section 54954.2 provides that a legislative body may take action on items of business not appearing on the posted agenda under the following conditions: (1) an emergency situation exists, as defined in Section 54956.5; (2) a need to take immediate action and the need for action came to the attention of the District subsequent to the agenda being posted; and (3) the item was posted for a prior meeting occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

Action Items

A. STATUS OF ENHANCED RECHARGE AGREEMENT – 15 minutes

Presenter: Bob Tincher and Katelyn Scholte

Recommendation: Receive and File.

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BOARD OF DIRECTORS

Division 1:
Richard Corneille

Division 2:
David E. Raley

Division 3:
T. Milford Harrison

Division 4:
John Longville

Division 5:
Melody McDonald

GENERAL MANAGER

Daniel B. Cozad

B. WASH PLAN AND UPPER SANTA ANA RIVER HCP COLLABORATION – 20 minutes

Presenter: Jeff Beehler and Heather Dyer

Recommendation: Receive and File.

C. ACTIVE RECHARGE PARTNERSHIP AGREEMENT DEVELOPMENT – 30 minutes

(M#1595)..... 3

Presenter: Daniel Cozad/Doug Headrick

Recommendation: Discuss proposed Active Recharge Partnership Agreement and Consider Approval of Joint Resolution 1076 and 561.

3. **ADJOURN MEETING.** The next regularly scheduled Board of Directors Meeting will be on September 19, 2018, at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA. Do we need Valley



Memorandum No. 1595

DATE: September 10, 2018

TO: San Bernardino Valley Water Conservation District Board of Directors
San Bernardino Valley Municipal Water District Board of Directors

FROM: Daniel Cozad, General Manager, Conservation District
Douglas Headrick, General Manager, Valley District

SUBJECT: Joint Resolution regarding Partnership Agreement for the Active Recharge Projects in Connection with the Proposed Upper Santa Ana River Habitat Conservation Plan

Summary

In 2012, San Bernardino Valley Municipal Water District (Valley District) and the San Bernardino Valley Water Conservation District (Conservation District) executed a Memorandum of Understanding (MOU) to facilitate the development of diversion, conveyance and recharge facilities for water captured by the operation of the Seven Oaks Dam and acquired through new water rights permits. This MOU provided Valley District access to Conservation District lands and operational expertise for Valley District's Enhanced Recharge Project, the first phase of which is nearing completion. The proposal before the Boards today builds on the successful cooperation initiated by the 2012 MOU by providing further opportunities for joint project development that increase water supply reliability at the lowest cost to our constituents.

Background

Valley District, on behalf of 13 other agencies, is leading the development of the Upper Santa Ana River Habitat Conservation Plan (HCP). This HCP will secure the necessary permits to allow the construction and operation of a number of stormwater capture and recycled water projects. These projects have been identified as cost effective alternatives to increase the water supply reliability of our region especially during droughts. The acquisition of land to mitigate for

the impacts of these water supply projects is a main focus at this stage of the development of the HCP. Valley District has been providing the leadership on behalf of the HCP partners in the effort to secure the necessary mitigation land resources necessary to complete the HCP. Although several parcels have been purchased with others under consideration, there is still a need to acquire several hundred more acres of San Bernardino Kangaroo Rat habitat for the HCP.

Conservation District has up to 295 acres of land in the Santa Ana River Wash that could provide conservation easements for mitigation purposes. This land, shown on the attached map, is near Valley's District's Enhanced Recharge Project proposed basins. This acreage was not needed for mitigation of the Wash Plan HCP covered activities and is now available for other conservation purposes. In an effort to acquire mitigation lands at the lowest possible price and find additional ways to cooperate, Conservation District and Valley District Staff are proposing a joint project.

The proposed joint project involves Valley District purchasing the Conservation District Conservation Easements for mitigation for River HCP covered activities, mainly water supply projects which Valley District is the lead. In turn, the Conservation District would commit to using the proceeds of the Conservation Easement sale to build a portion of the Active Recharge Project. The Active Recharge Project is actually a series of stormwater capture projects located along the base of the San Bernardino Mountains that utilize primarily flood control facilities. The Active Recharge Project is modeled after the successful development of the Enhanced Recharge Project along the Santa Ana River albeit at much reduced scales due to the smaller watersheds that feed the remaining tributaries.

Under this joint project scenario with the Conservation District, Valley District will secure mitigation lands, with the price paid for the land acquisition to be used by the Conservation District to build a portion of the planned stormwater capture improvement program (Active Recharge).

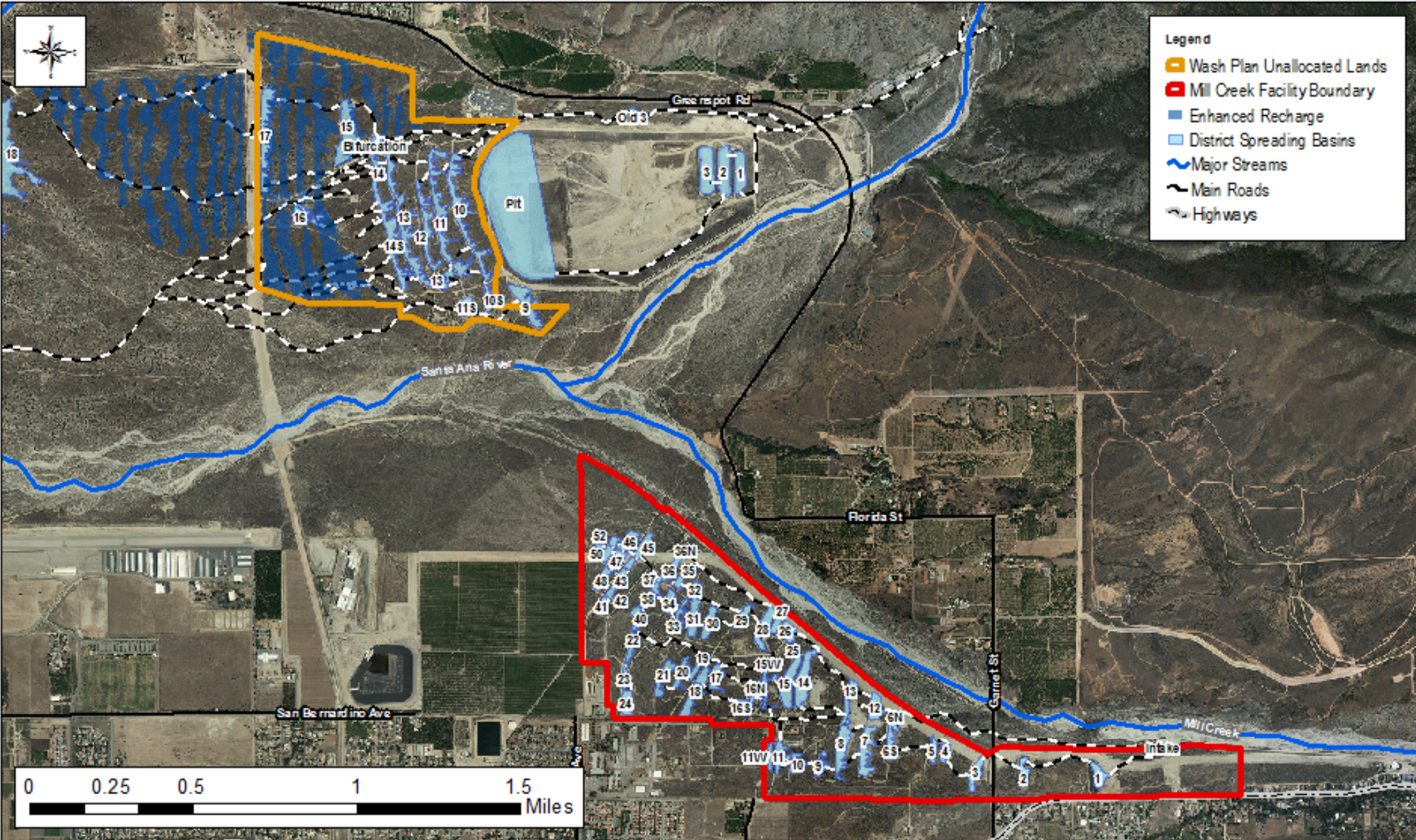
The attached draft Resolution memorializes the principles of agreement and a PowerPoint presentation providing more details on the terms will be provided at the joint Board meeting.

Staff Recommendation

That the Valley District and Conservation District Boards of Directors approve the attached Joint Resolution that directs their respective Staffs to proceed with development of a Partnership Agreement for the Active Recharge Projects in Connection with the Proposed Upper Santa Ana River Habitat Conservation Plan.

Attachments

1. Map of Conservation District mitigation land
2. Joint Resolution SBVMWD No. 1076 and SBVWCD No. 561



RESOLUTION NO. 561

(SAN BERNARDINO VALLEY
WATER CONSERVATION DISTRICT)

RESOLUTION NO. 1076

(SAN BERNARDINO VALLEY
MUNICIPAL WATER DISTRICT)

A JOINT RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT AND THE BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT DIRECTING THEIR RESPECTIVE STAFFS TO PROCEED WITH DEVELOPMENT AND PREPARATION OF A PARTNERSHIP AGREEMENT FOR THE ACTIVE RECHARGE PROJECTS IN CONNECTION WITH THE PROPOSED UPPER SANTA ANA RIVER HABITAT CONSERVATION PLAN

WHEREAS, the San Bernardino Valley Water Conservation District (“Conservation District”) and the San Bernardino Valley Municipal Water District (“Valley District”) enjoy a strong, recent history of cooperation and pooling of resources toward regional betterment of the availability, quality and flexibility of groundwater supplies and management, including all of the following:

1. Entering into an “Easement and License Agreement” on or about April 2008, whereby the Conservation District and Valley District agreed to cooperate in the sharing of available recharge facilities, and the development of additional facilities and the sharing of maintenance costs in connection with same;
2. Entering into an “Agreement to Develop and Operate Enhanced Recharge Facilities” on or about October 2012, under which Valley District leased facilities of the Conservation District, and the parties delineated responsibilities for the operation and maintenance of existing spreading basins and opportunities for the development, ownership, and operation of new facilities; and
3. Assuming joint lead organizational responsibilities leading to the “San Bernardino Basin Groundwater Council Framework Agreement,” an initiative which formed a multi-agency forum for assessment, planning, and funding for balancing the availability of local native water supplies with imported water supplies, and balancing commitments under prior water adjudications with historical and evolving current groundwater production demands, while striking an equitable

balance for prospective funding and planning for long-term groundwater resource sustainability;

WHEREAS, the Conservation District has for some time been formulating, sponsoring, coordinating, and serving as lead agency for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (“Wash Plan”), under which it has undertaken extensive habitat modeling development, field surveys and verifications, habitat assessments, formulations of habitat management plans and funding estimates for same, and otherwise conducted negotiations with resource protection agencies, including the United States Fish and Wildlife Service and the California Department of Fish and Wildlife, to establish reasonable and responsible criteria for the balancing of habitat preservation and management needs with the demands for the public benefits resulting from public work projects and other “Covered Activities” under the Wash Plan;

WHEREAS, through the efforts of the Wash Plan, the Conservation District, acting in coordination with the resource protection agencies, has developed habitat surveys, habitat assessment tools, and proposed management plans and programs which are anticipated to serve as the basis of a successful approval of the Wash Plan, and implementation of a multi-agency Incidental Take Permit, along with a habitat conservation plan to offset impacts to endangered and threatened species and their critical habitats from covered activities included within the Wash Plan;

WHEREAS, Valley District has been a supportive member and participant in of the Wash Plan, and has undertaken the Upper Santa Ana River Habitat Conservation Plan (“River HCP”) in support of a variety of projects including the proposed Active Recharge Projects, which will expand available facilities for increased regional groundwater management, including accommodation of both native water and imported water supplies on a regionally cooperative basis;

WHEREAS, the Conservation District is a participant in and member of the River HCP and has participated in review of the Active Recharge Projects, especially the Mill Creek Project;

WHEREAS, both Valley District and the Conservation District seek to build upon the positive work done in the Wash Plan, and the positive working relationships with resource protection agencies, in advancing the Active Recharge Projects and the River HCP;

WHEREAS, Valley District has estimated that mitigation requirements for the River HCP including Active Recharge Projects may call for substantial amounts of acreage of San Bernardino kangaroo rat habitat to be placed under conservation easements;

WHEREAS, the Conservation District and Valley District now wish to draw upon their strong and productive recent history of cooperation to combine their resources and expertise in service of the advancement and effectuation of the River HCP and Active Recharge Projects, while at the same time ensuring that the fiscal and other benefits flowing from the necessary habitat preservation and mitigation components of those efforts redound to the benefit of, and stay within the purview of, local regional water interests, to serve the joint constituencies of the Conservation District and Valley District;

WHEREAS, the Conservation District has identified that it owns of lands it believes constitute suitable San Bernardino kangaroo rat habitat which may be appropriate for use in conjunction with the River HCP, including Active Recharge Projects; and

WHEREAS, both the Conservation District and Valley District realize that available San Bernardino kangaroo rat habitat could be purchased from, or sold to, private development or other interests, at varying costs, but both agencies believe that committing the available habitat owned by one water agency to the use and benefit of another agency, in furtherance of projects which improve the overall capacity of the region to preserve, manage, and maximize groundwater supplies, is in their mutual best interest, and more importantly in the best interest of their joint constituencies.

NOW THEREFORE, BE IT RESOLVED that in consideration of all the foregoing, the Board of Directors of the San Bernardino Valley Water Conservation District and the Board of Directors of the San Bernardino Valley Municipal Water District do hereby resolve as follows:

1. The Conversation District and Valley District state and affirm their intent to work together toward developing a Partnership Agreement for Joint Active Recharge Project Development under the River HCP, and hereby direct their respective administrative staff and legal counsels to begin preparation of such an agreement, for mutual consideration and approval by the respective District boards.

2. The proposed partnership agreement is anticipated to include the following terms:

- A. The Conservation District will commit to provide up to 295 acres of conservation easements to the River HCP including Active Recharge Projects, which will be transferred to, held by, and administered by the San Bernardino Valley Conservation Trust, to help offset the impacts from covered projects under the River HCP.
- B. Valley District will provide funding to the Conservation District, in an amount to be determined on a per-acre basis, for the Conservation District's transfer of mitigation acreage in service of the River HCP including Active Recharge Projects and.
- C. The Conservation District will commit to utilize the proceeds of the conservation easement funding to be provided by Valley District for water conservation projects, land acquisitions, facilities development, including but not limited to the defined "Transfer Projects" below, or other expenditures within the jurisdictional boundaries of at least one of the two respective agencies.
- D. Application of these proceeds towards such regional water project developments will be overseen by a "Partnership Agreement Policy Committee" consisting of the General Managers of both the Conservation District and Valley District, or their designees.

- E. Valley District will, in connection with its River HCP partners, provide additional funding to the San Bernardino Valley Conservation Trust to provide a permanent, non-wasting endowment for mitigation, preservation, and management activities on the conservation easements, in an amount as may be required by the applicable resource protection agencies and those agencies responsible for approving the River HCP and providing the applicable take permits.
- F. Valley District and the Conservation District shall jointly apply to the San Bernardino Valley Conservation Trust to expand its board of directors, to include a representative from Valley District.
- G. Valley District will transfer to the Conservation District the following conceptual proposed regional groundwater facility capital improvement projects (collectively “Transfer Projects”), which are a part of the Active Recharge Projects :
- 1) Plunge Creek Basin 1 and Basin 2 – construction and operations
 - 2) City Creek Basins – construction and operations
 - 3) Waterman Percolation Basins – reconstruction and maintenance
 - 4) East Twin Creek Basin – repairs and maintenance
 - 5) Mill Creek Diversion – expansion, construction, and operations
- H. The Conservation District will expend the proceeds of the conservation easement purchase toward the Transfer Projects, and if the funds are fully expended before the Transfer Projects are completed, the Districts will cooperate on methods to fund the remaining project benefits. Such funding methods may include, but not be limited to, exploration of available alternative funding from one or both Districts, potential bond or assessment district financing, pursuit of grants, loans, or other vehicles, or other financing alternatives.
- I. To the extent funding for cost effective Transfer Project benefits cannot be secured from alternative sources, Valley District will either reimburse the Conservation District for the additional project costs for the completion of the Transfer Projects listed above, or the Districts will meet and confer on reduced or modified scope(s) of the remaining Transfer Projects, to secure the highest likely benefit to preserve, manage, and maximize groundwater supplies within existing available funding.
- J. To the extent necessary, both Valley District and Conservation District will support any proceedings before the San Bernardino County Local Agency Formation Commission to facilitate and effectuate the parties’ ability to so implement these Transfer Projects.

- K. The partnership agreement will include an opportunity for Riverside County entities under the *Western* judgement to participate in both the partnership agreement and projects upon a proportionate share of costs basis, to the extent that such projects develop water that meets the definition of “new conservation” under the *Western* judgment.
- L. To the extent necessary, both Valley District and the Conservation District will present a joint request to the State Water Resources Control Board for a change in diversion location in Santa Ana River diversion rights held by Valley District.
- M. Upon completion of each of the respective Transfer Projects, ownership and operation of such projects would fall to the Conservation District, to be funded by the Groundwater Council’s operation and maintenance budget, as may be supplemented by the Conservation District Groundwater Charge for those parties not participating in the Groundwater Council.

3. The Conservation District and Valley District commit, one to the other, to work expeditiously towards the development of this partnership agreement, in service to the Wash Plan, the River HCP and Active Recharge Projects, and the significant regional groundwater benefits both parties perceive will flow from the physical, operational, and resource stewardship synergy the partnership agreement is intended to create.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Board of Directors of the San Bernardino Valley Water Conservation District on the 10th day of September 2018, by the following vote:

YES:

NO:

ABSTAIN:

ABSENT:

Richard Corneille, President

ATTEST:

Daniel B. Cozad
General Manager/Board Secretary

PASSED, APPROVED AND ADOPTED at a regular meeting of the Board of Directors of the San Bernardino Valley Municipal Water District on the 10th day of September 2018, by the following vote:

YES:

NO:

ABSTAIN:

ABSENT:

Mark Bulot, President

ATTEST:

Douglas D. Headrick
Secretary