



**San Bernardino Valley  
Water Conservation District**

Helping Nature Store Our Water

**BOARD OF DIRECTORS MEETING AGENDA**

**Wednesday, April 26, 2023 – 1:30 p.m.**

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

Anyone wishing to listen to or participate in the meeting can join via Zoom:

**Call in (669) 900-6833, Meeting ID: 842 5799 5859**

To join the Zoom Meeting on <https://us02web.zoom.us/j/84257995859>

While the District makes every attempt to follow all guidance re COVID-19 safety protocols, the District cannot assure in-person attendees that they will not be exposed to COVID-19 or persons who have been so exposed, and attendees are advised to exercise caution in limiting their own incidences of exposure, particularly those who may be in groups at higher risk of infection, or serious symptoms of COVID-19 if infected.

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 District’s 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 a participant at this meeting you will need special assistance, the District will attempt to accommodate you in every reasonable manner. Please contact Athena Laroche 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.

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**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

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**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*

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**BOARD OF DIRECTORS**

Division 1:  
Richard Corneille

Division 2:  
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Robert Stewart

Division 4:  
John Longville

Division 5:  
Melody McDonald

**GENERAL MANAGER**

Betsy Miller

*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.*

**3. GUEST RECOGNITION/SELF INTRODUCTIONS**

**4. PUBLIC HEARING RELATED TO ADOPTION OF GROUNDWATER CHARGE**

– 10 minutes

*Article 1, Section 75560 of the California Water Code requires that a Water Conservation District that proposes to levy a groundwater charge "...shall annually cause to be made an engineering investigation and report upon groundwater conditions of the District." District staff will present the annual Bunker Hill Engineering Investigation Report and review the Groundwater Replenishment Program annual budget. District staff is recommending to the District's Board of Directors that an increase take place for fiscal year 2023-2024 in the amount \$1.68 per acre-foot, to a total of \$16.95 groundwater charge per acre-foot (af) for all groundwater production. As requested by the San Bernardino Basin Groundwater Council ("Council:), the District is also considering the addition of a Replenishment/Sustainability component to the groundwater charge, to be imposed on entities subject to the District's Groundwater Charge that are not members of the Council. The Council supports phasing in this charge over several years The proposed amount of such component is \$20.00 per acre foot but for the upcoming water year is proposed at the phase-in rate of twelve dollars (\$12.00) per acre foot. District staff will present any written comments received and the board will hear oral comments.*

- *Open Public Hearing*
- [2023 Engineering Investigation Report Presentation \(if requested\)](#)
- *Staff Presentation on GW Sustainability/Replenishment Component and Groundwater Charge*
- *Groundwater Charge for FY 2023-2024 (M#1931) and Review Draft Resolution No. 610 for Groundwater Charge for 2023-2024 .....5*
- *Provide any comments on Resolution No.610 .....20*
- *Receive Public Comments or Testimony*
- *Close Public Hearing*

**5. CONSENT CALENDAR**

- A. Approval of Board Minutes, April 12, 2023 .....34
- B. Report of Excused Absences

**6. COMMITTEE REPORTS /ACTION ITEMS**

**Action Items**

- A. PROJECT CHARTER FOR MILL CREEK DIVERSION AND DEBRIS MANAGEMENT IMPROVEMENT PROJECT– 5 Minutes (M#1932).....44

**Presenter:** *Katelyn Scholte*

**Recommendation:** Staff recommends approval of the updated Project Charter for the Mill Creek Diversion and Debris Management Improvement Project.

7. **INFORMATION ITEMS:**

A. Future Agenda Items & Staff Tasks

8. **UPCOMING MEETINGS:**

- A. May 2, 2023 San Bernardino Valley Regional Water Agency Board of Directors Meeting, 2:00 p.m. at Valley Regional
- B. May 3, 2023 USAR WIFA Meeting, 8:30 a.m. via Teleconference
- C. May 3, 2023 Conservation Trust Board Meeting, 2:00 p.m. at Conservation District  
(Zoom Meeting ID: 815 7933 6493)
- D. May 4, 2023 San Bernardino Valley Regional Water Agency Policy/Administration Workshop, 2:00 p.m. at Valley Regional
- E. May 9-May 11, 2023 ACWA Spring Conference, Monterey  
*(Board Approval Required)*
- F. May 10, 2023 USAR WIFA Technical Advisory Committee Meeting, 8:30 a.m. via Teleconference
- G. May 17, 2023 Board of Directors Meeting, 1:30 p.m.  
(Zoom Meeting ID: 811 5882 7619)
- H. May 17, 2023 Budget Workshop, 2:30 p.m. *(or immediately following the Board meeting)*  
(Zoom Meeting ID: 811 5882 7619)
- I. May 31, 2023 PERC Policy Committee, 9:00 a.m.  
(Zoom Meeting ID: 853 6108 6548)
- J. June 5, 2023 Basin Technical Advisory Committee, 1:30 p.m. at Valley Regional

9. **CLOSED SESSION**

1. The Board may convene in Closed Session under authority of Government Code Section 54956.9 (a), in order to discuss existing litigation, Endangered Habitats League et al. vs. U.S. Army Corps of Engineers, Central District Court Case no. Case No.: 2:16-cv-09178-MWF-E.
2. The Board may convene in Closed Session for Conference to discuss Real Property Negotiations pursuant to Government Code §54956.8; Owner: Southern California Edison East End Hydroelectric Generation Plant property located on various parcels and easements in Mill Creek and Santa Ana River Canyons, Negotiator: Betsy Miller and David Cosgrove Owner: Southern

California Edison Negotiators Allison, Bahen, Property Manager and Steven Powell, Vice President.

3. The Board may convene in Closed Session under Government Code Section 54956.8, to discuss the terms and conditions of potential acquisition of Federal properties as part of the Wash Plan land exchange with BLM, consisting of 327.5 acres of the Federal Exchange Parcel, and 90 acres of the Federal Equalization Parcels, in exchange for District property of Assessor Parcel Nos. 0291-151-01, -02, and-05. David Cosgrove and Betsy Miller are the District's negotiators, and Jessika Peltz is the lead negotiator for BLM.
4. The Board may covene in closed session under Government Code Sections 54956.9(a), (d)(2) and (4); and (e) (2), to discuss pending or potential litigation, relating to conditions of property at 1630 West Redlands Boulevard Suites G, H, and I.
10. **ADJOURN MEETING.** The next regularly scheduled Board meeting for May 17, 2023, at 1630 W. Redlands Blvd., Suite A, Redlands, CA 92373 at 1:30 p.m. and via teleconference/Zoom.



**San Bernardino Valley  
Water Conservation District**

Helping Nature Store Our Water

Memorandum No. 1931

**To: Board of Directors**

**From: Finance & Administration Committee  
Betsy Miller, General Manager**

**Date: April 26, 2023**

**Subject: Groundwater Charge for FY 2023-24**

**RECOMMENDATION**

Conduct a public meeting on April 12, 2023, regarding the proposed 2023-24 Groundwater Charge, and then continue the matter to April 26, 2023, for final action and adoption of a resolution approving an adjustment of the Groundwater Charge to the total unitary amount of \$16.95 per acre-foot, for both agricultural and non-agricultural production. This change represents an eleven (11%) percent increase from the rates in effect for the prior year, and in absolute dollars, is a change of \$1.68 per acre foot. In addition, approve a Sustainability Component of the Groundwater Charge in the amount of \$12.00, which represents an increase of \$4.65 per acre foot, and is the third step of a phase-in period of such charge.

**BACKGROUND**

The District reviewed and approved its annual Engineering Investigation for the 2021-22 water year (“EI”) on March 8, 2023. At the prior meeting on February 8, 2023, the District reviewed its Preliminary Groundwater Enterprise Budget for the upcoming year, and the Board gave staff direction on the advertised proposed Groundwater Charge rate to include in public notices. That advertised rate was \$16.95 per acre-foot, which represents an eleven (11%) percent increase from the rates in effect for the prior year of \$15.27. The proposed increase reflects both general inflation and rises in the costs of the District’s groundwater enterprise activities due to permitting requirements. Background facts supporting staff’s recommendation for this increase were detailed in the staff report accompanying the Board’s consideration of a published rate on February 8, 2023. For ease of reference, a copy of that staff report is attached, and incorporated herein by reference.

The Board also gave direction on a step increase in the Sustainability Component of the Groundwater Charge, which is paid in order to “level the playing field” on costs of basin-benefitting water supply and recharge enhancement by the Groundwater Council, to \$12.00. The prior rate was \$7.35 per acre foot.

Today is the time set for a public meeting on the proposed adjustment to the District’s rate for the Groundwater Charge. A following public hearing will be held on April 26, 2023 at 1:30 pm, as per the District’s established custom, and consistent with applicable statutes governing Groundwater Charge

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processes. Notices of today's public meeting and the April 26, 2023, public hearing were published on the District's website, and in the San Bernardino County Sun and the Redlands Daily Facts on March 3<sup>rd</sup>, 10<sup>th</sup>, and 17<sup>th</sup>. Mailed notice was also provided to all reporting groundwater producers on February 23, 2023. This provides more than the required forty-five (45) days between the date of that mailed notice and the proposed actual imposition of the Groundwater Charge on April 26, 2023, per California Constitution Article XIII D, Sec. 6(a)(2).

As it has in the past, the decision to fix the Groundwater Charge rate comes with a series of findings regarding agricultural and non-agricultural groundwater production, annual and cumulative change in storage, and overall basin conditions. These findings are based upon the Engineering Investigation and required by statute. The findings, and the support for them, are set out in detail in the "Resolution Of The Board Of Directors Of The San Bernardino Valley Water Conservation District Establishing A Groundwater Charge On The Production Of Groundwater Within District Boundaries, And Making Certain Findings Relative Thereto" ("Resolution"), which is attached hereto, and submitted for the Board and public review. That Resolution also contains background and factual findings with respect to the Sustainability Component of the Groundwater Charge.

District staff has endeavored to comply with all procedural requirements applicable to the Groundwater Charge. For this reason, staff is recommending that the public meeting be opened today, and then continued until April 26, 2023, for a public hearing regarding final adoption of the Resolution.

### **DISCUSSION**

The recommendation from staff to adjust the Groundwater Charge rate is a function of the Groundwater Enterprise Budget, based on anticipated expenditures for the upcoming year. These topics were reviewed in detail by staff and the District Board on February 8, 2023. The staff report accompanying the February 8, 2023, review detailed budget revenue and expense projections, identified budget presumptions, and described the recent history of Groundwater Charge amounts and the initiation and implementation of the Sustainability Component. In the interest of avoiding repetition, that staff report is attached hereto, and its contents are incorporated herein by reference.

On balance, in considering the Budget, the Board directed that the "noticed" rate would be as set forth above, representing both the step increase in the five-year phase in of the Groundwater Charge Sustainability Component, which moves from \$7.35 to \$12.00 per acre foot, and an eleven (11%) increase in the Groundwater Charge rate, from \$15.27 to \$16.95 per acre foot. Those are the rates that have been proposed for consideration, and which are the subject of public review and comment both at the April 12, 2023, public meeting, and the April 26, 2023, public hearing. Obviously, the actual rate levied may vary, per Board direction and any public comments received.

### **POLICY CONSIDERATIONS**

Staff has previously provided a projection of groundwater production and revenue generated by the existing rate and the proposed expenditures for the Groundwater Enterprise Budget, to which proceeds from the proposed rates will be applied. The Finance and Administration Committee concurred in staff's assessment that an eleven (11%) percent increase was warranted, both to address inflation and permitting

requirements, and to ensure reserves are used for maintenance and capital projects rather than recurring operating expenses.

**FISCAL IMPACT**

The development and coordination of the Groundwater Charge is supported by the Groundwater Recharge Enterprise. The impact to reserves without an increase is approximately \$168,499.

**ATTACHMENTS OR MATERIALS**

Draft Groundwater Budget and staff report from February 8, 2023

DRAFT Groundwater Charge Resolution No. 610

Declaration of Mailing of Groundwater Charge Notices

**APPROVALS**

Recommended by the Finance & Administration Committee

Reviewed by District Counsel



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

Memorandum No. 1916

**To: Board of Directors**

**From: Betsy Miller, General Manager**

**Date: February 8, 2023**

**Subject: Budget Planning for Groundwater Enterprise for FY24: Proposed Groundwater Council Operations and Maintenance Fee and Advertised Groundwater Charge**

**RECOMMENDATION**

Review, discuss and approve issues for inclusion in the FY24 Groundwater Enterprise Budget and provide direction to staff on Public Notice for the Groundwater Charge.

**BACKGROUND**

Each year, San Bernardino Valley Water Conservation District (District) staff prepares revenue and expense estimates for the Groundwater Enterprise, as underlying support for the Board to determine a proposed amount for the Groundwater Charge for public notice purposes. The estimated amount included in the proposed advertised rate provides public notice of the potential proposed rate for discussion purposes does not set or adopt any change. Following this analysis, the proposed Groundwater Charge rate is noticed in the newspaper and via mail to groundwater producers, with opportunities for community input and feedback at both a public meeting and a Board hearing to determine the annual groundwater charge.

Groundwater Charge rates held steady (\$3.23 Agricultural/\$11.62 Non-Agricultural) from 2014 to 2016. In 2017, the rate was increased by 4%, with the previously-established Rate Stabilization Reserve fund used to moderate rate increases. In 2018, the Board approved an additional 4% increase in Non-Agricultural rates. That same year, in response to legal developments<sup>1</sup>, the Board determined that Agricultural rates should be incrementally raised over time, to match Non-Agricultural rates. The Board opted for a three-year phased approach to equalize Agricultural and Non-agricultural rates, relying again on the Rate Stabilization Reserve fund to bridge transitional shortfalls. In 2019 and 2020, the Board approved a 5% increase in Non-Agricultural rates, while Agricultural rates continued to be raised incrementally to match Non-Agricultural rates, with no comments in opposition. The Rate Stabilization Reserve fund underwrote the shift from differential Agricultural and Non-Agricultural rates to a unitary

<sup>1</sup> See, *City of San Buenaventura v. United Water Conservation District* (2017) 3 Cal. 5<sup>th</sup> 1191, which among other things, called into question the constitutionality of the rate differentials between the two types of rates, formerly required by Water Code section 75594. See discussion, *infra*.

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rate, of \$13.85/AF, from 2018-2021. In 2021, the Board approved a change to rates increasing the unitary rate by 5% to \$14.54/AF and adding a replenishment sustainability component for San Bernardino County entities.

Over this same time period, Bunker Hill Groundwater Basin producers collaborated with the District to develop and approve a Groundwater Council (GC), formalized in 2018. The Groundwater Council offers a cooperative vehicle whereby members have created a method to equitably allocate basin recharge operations and maintenance costs, and to provide funding for basin replenishment with imported water whenever feasible. Over the past five years, the GC payments and Groundwater Charge rates have proven effective to recover the majority of costs for the Groundwater Enterprise, as well as providing a cooperative regional funding source for taking advantage of variable imported water supplies for local recharge, and the GC members are currently working together to prepare an updated agreement for 2023-2028.

### **DISCUSSION**

The Groundwater Enterprise fund revenue has met its expenditures for the past six years. Based on performance for the first half of the fiscal year, staff has projected a budget for Groundwater Enterprise operations and updated capital expenses. Staff has estimated a preliminary Groundwater Charge rate and initial GC revenue budget needed to offset these expenses. Staff has begun preliminary discussions with the GC regarding the proposed change as well.

The GC effectively serves as an alternative method for members to cover the District groundwater recharge operations costs, previously paid through the Groundwater Charge. Since FY19, the District's budget has utilized the GC funding mechanism for GC partners.

### **Budget Approach:**

The budget approach recommended by staff includes the following efforts and activities:

- Develop and review the draft budget with the GC and Groundwater Charge partners
- Utilize the Groundwater Enterprise Budget to develop the proposed Groundwater Charge
- Review the draft budget with the Finance & Administration Committee or in a Board Workshop before submitting it to the Board for approval
- Review other budgets with appropriate partners and stakeholders, as appropriate
- Utilize feedback from all of the above in the development of the final budget proposal

### **Assumptions**

The budget process uses similar as previous budgets, including the following specific assumptions:

### **Revenue:**

- Groundwater Charge revenue is based on actual charges paid in the prior year, with a review from the GC agencies

- GC revenue as calculated by the Equitable Allocation Model (“EAM”<sup>2</sup>) and paid by GC member agencies
- Producers who are not parties to the GC pay the Groundwater Charge
- Property tax is estimated from 2022 actual receipts
- Mining revenue is estimated based on lease guaranteed annual minimum payments
- Interest revenue is based on investment forecasts
- Consideration of the needs of the Active Recharge Transfer Project capital costs and interest income
- Revenue for Wash Plan Implementation from the Conservation Trust

Expenses:

- Expenses are estimated on a zero basis, or actual costs/estimates modified based on specific needs and actual 2022 costs
- Board administrative costs and Staff COLA increases are based on Bureau of Labor Statistics CPI-U All West at 6.1% based on actual December 2022 rate of 6.6% raised in the last budget year [https://www.bls.gov/regions/west/news-release/consumerpriceindex\\_west.htm](https://www.bls.gov/regions/west/news-release/consumerpriceindex_west.htm)
- Utilities increase at approximately 5-7%, based on sector CPI or projected rate changes
- Salary forecast includes raise pool of up to 5% as a percentage of total salaries
- Miscellaneous expenses are generally increased at 5% where no other basis is available
- For FY24, new expenses related to compliance with recently issued regulatory permits for the Santa Ana River Groundwater Recharge Facility are estimated at 1) 50% of the Assistant Biologist salary/benefits/overhead (\$60,000) plus 2) \$20,000 for specialized environmental permits, or 6% of the total Groundwater Enterprise Budget; any additional compliance costs incurred during this first year of implementation will be covered by the Rate Stabilization Reserve

During the 2016 budget process, the Board requested the full cost of capital improvements, repairs, and equipment in the budget. CIP Costs are incorporated into the annual operating budget to account for specific instances where operating revenue is paid to capital projects and capital funding covers annual costs such as salaries. CIP costs in the current Groundwater Enterprise budget include the following:

- Mill Creek Diversion improvements, permitting, and construction
- Design and construction of the Mentone shop
- Permit costs for the Mill Creek Groundwater Recharge Facility
- Purchase/replacement of heavy equipment
- On-going security repairs such as fencing, gates, boulders, and other barriers
- On-going land management such as removal of invasive, high-water-use species
- Design of the ARTP Projects

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<sup>2</sup> The EAM is the Groundwater Council’s method of assigning cost burdens to basin maintenance and operations, and to investments for purchase of imported water supplies, when available, based on balancing historic water rights with later increases or decreases in production to allocate cost while respecting established rights and current patterns of use. It therefore assigns costs based on equal weight to members’ (or their predecessors’) historical production (from 1959-1963), and more current production (from 2015-2019).

Based on the year-to-date budget information and the assumptions listed above, staff projects that a 11% increase in the Groundwater Charge is needed for FY24: A 5% increase due to inflation and a 6% increase due to new permit compliance requirements.

### **Legal Changes and the Move to a Unitary Rate**

Throughout our history, the District has incorporated all requirements of the California Water Code (CWC), Prop 218, and Prop 26 into the rate setting process for the Groundwater Charge. We continue to carefully monitor legal cases related to the interpretation of voter initiatives, including Proposition (Prop) 13, Prop 218 and Prop 26, which seek to alter local governments' ability to raise taxes and fees without voter approval.

In *City of San Buenaventura v. United Water Conservation District, supra*, the California Supreme Court ruled that Groundwater Charges are not subject to Prop 218, but must meet the requirements of Prop 26. This requires that the charge or fee must 1) be no more than necessary to cover the costs of the activity; and 2) be allocated in a manner that bears a fair or reasonable relationship to the burdens or benefits from the activity. Further, the Court essentially invalidated CWC Section 75594, which required a 3-5:1 Non-Agricultural to Agricultural ratio for the charge. Before this decision, the District followed the requirements of CWC Section 75594, which resulted in a reduced Groundwater Charge for Agricultural production, which was also applied to parks, golf courses, schools, and cemeteries. This requirement that the Groundwater Charge be allocated in a manner related to the burden and benefit of the recharge replaced the statutorily-dictated cost ratio and, consistent with historical rate development, the District will continue to set the annual charge as necessary to recover the costs for the service provided (see attached Table on GW Charge History).

In setting the 2018 rates under these new legal parameters, the District did not believe there was sufficient factual record on variable costs between the Agricultural or Non-agricultural uses of groundwater production available to propose a defensible distinction of rate, based on relative burdens and benefits of the two categories of uses. No further information has become available since that time. Further, the District has not attempted to allocate its internal costs or field maintenance expenses based upon the distinction in use. Because Agricultural production is not limited to specific geographic areas within the District's boundaries, nor are District facilities designated solely, or even primarily, to Agricultural or Non-Agricultural use, the District Board approved a unitary rate for all production, regardless of type of use.

This change affected 30 producers producing approximately 10,815 acre feet from 52 wells. These producers paid groundwater charges of approximately \$35,879 in 2017. These users effectively received an increase in per acre foot rates of groundwater charges, due to the court-mandated discontinuance of the protected rate status for Agricultural use. Under a unitary rate in 2017, these 30 producers would have paid approximately \$131,300, with six users likely to be significantly affected due to the amount of recent production. These are primarily municipal users that now pay through the Groundwater Council.

To address these impacts to producers, the Board approved the utilization of the Groundwater Charge Stabilization Reserve over a three-year transition process, in which the Agricultural rate incrementally increased to a level of the Non-Agricultural rate. In 2018, staff undertook significant efforts to inform

these producers of the change and provide multiple opportunities to participate in the process of setting the groundwater charge. Staff took the following actions at the Board's direction:

1. Produced and distributed information for all producers on the *Ventura v. UWCD* case and its implications
2. Held an informational workshop to explain the case, its effect on the Groundwater Charge and invited participants to attend the February 14 Board meeting to select the advertised rate
3. Mailed and advertised notices of Groundwater Charge change, including the potential phase-in period
4. Coordinated with Groundwater Council members
5. April 7<sup>th</sup> Public Meeting at Board meeting
6. April 21<sup>th</sup> Public Hearing to adopt rate at Board Meeting
7. Mailed an information sheet with the rate changes after adoption.

Throughout this time, including the informational workshop, public meeting, and public hearing, no Agricultural users indicated any opposition to the changes in rates. Certain Agricultural users who reached out for additional information noted their support for the Board's three-year transition process.

### **Groundwater Sustainability and Replenishment**

As part of the FY22 rate setting process, the Board approved a request from the GC to include a Replenishment/Sustainability component, currently paid by the GC, in the Groundwater Charge. This component serves to ensure that basin producers who are not GC members contribute proportionately to replenishment supplies, which GC members fund through their participation in the GC. This portion of the Groundwater Charge is remitted after collection by the District to the GC to purchase imported water from San Bernardino Valley Municipal Water District for groundwater recharge.

On October 12, 2020, the GC approved a plan to achieve full financial participation from those remaining agencies that produce groundwater from the basin but have not yet become GC members. The replenishment component of the Groundwater Charge is in a proportionate amount so as to assure ratable contribution by such producers to basin wide replenishment efforts, and funding, now implemented by the GC and its members. This charge component is assessed as permitted under the District's organic act, and constitutional requirements, on San Bernardino County production within the District's jurisdictional boundaries, and in a manner that provides equality with the allocations from the GC's EAM.

Specifically, GC expenditures for imported recharge water are tracked over a defined time period (five years, generally, except shortly following GC formation when fewer years' of data were available) to estimate a normalized annual average as the benchmark of total water replenishment expenditures benefiting the basin. The total production ratio of the Other Producers during that same period, as compared to the GC members, is then determined to derive a "reasonable relationship" between the benefits achieved by Other Producers from GC recharge. The proportionate ratio of the total production from the Other Producers is then applied to the normalized basin recharge expenditure figure to determine the aggregate amount to be collected from the Other Producers as part of the Groundwater Charge. That total monetary sum is then allocated among the Other Producers pursuant to the EAM allocation. In this way, the total amount of Groundwater Charge raised by this Replenishment/Sustainability component paid by such Other Producers, in aggregate, would be no more than their proportionate benefit from basin

recharge generally. The total cost would therefore not exceed the cost of the recharge activity basin wide, and the burden to Other Producers would be based on their production as a group, allocated among them individually in the same manner as the GC does with its members. The goal is to meet Proposition 26 requirements for total costs and reasonable benefit while use of the EAM would “carry forward” for the Other Producers the GC’s balance between historical rights and present production, and place all basin producers, both GC members and Other Producers, on an even footing.

Staff used the same methodology to calculate a rate for non-GC member producers in the District boundary. The replenishment/sustainability fee and would be up to \$20.00 per AF of production.

Staff reviewed these analyses with the GC and with the District’s Finance & Administration Committee. In recognition of concerns, staff proposed a phase-in period of five or more years to implement the fee in order to reduce burden on non-GC Producers. The GC approved this phase-in period, and other elements implemented by the District Board. During staff outreach to affected non-GC Producers in 2020, no feedback was received in opposition to the new component.

### **POLICY CONSIDERATIONS**

The Board provides direction to staff on the appropriate Groundwater Charge rate to advertise in the notices for the public meeting and hearing. Staff has reviewed the groundwater recharge operational costs to date for FY24 and Groundwater Recharge Enterprise revenue likely to be generated by the Groundwater Charge and the Groundwater Council. Staff believes that these data provide sufficient information to project the FY24 Groundwater Recharge Enterprise needs. Following this analysis, staff recommends that the Board advertise an 11% increase in rates for the upcoming fiscal year. The recommendation is in keeping with prior Board direction to limit annual rate increases to 3-5% except in cases of significant policy, economic, or operational change. Due to the District’s cost-conscious approach, the proposed general increase of 5% (without costs for new permit compliance) remains lower than overall inflation for the period.

### **FISCAL IMPACT**

The annual development of the Groundwater Charge rate is supported by the Groundwater Recharge Enterprise. Without the proposed 11% rate increase in FY24, the impact to the Rate Stabilization Fund would be approximately \$148,476. The GC is expected to hold a budget meeting to review these and other costs following updates to the EAM in March or April. The replenishment/sustainability component is revenue neutral to the District as it is held in a restricted reserve for transfer to the GC for purchase of imported water.

### **POTENTIAL MOTIONS**

1. Move to direct staff to advertise an 11% increase inclusive of a 5% increase due to inflation and a 6% increase due to new permit compliance requirements in the Groundwater Charge, continue to phase-in the Replenishment/Sustainability component over five years, and approve the budget plan as shown herein.
2. Move to direct staff to advertise a different rate change to the Groundwater Charge, continue to phase-in the Replenishment/Sustainability component over five years, and approve changes to the budget plan as shown herein.

**ATTACHMENTS OR MATERIALS**

Draft Groundwater Enterprise Budget for FY24

Groundwater Production and Charge Revenue Projection

GL ACCT:                      GL DESCRIPTION:		Approved 2022-2023 Amended Budget	Projected Annual Costs (7/1/22- 6/30/23)	Draft 2023- 2024 Budget	GROUNDWATER RECHARGE ENTERPRISE		
<b>Draft 2023-2024 Budget</b>					2022 BUDGET:	% BUDGET	BASIS:
<b>INCOME:</b>							
4012	INTEREST INCOME-LAIF	2,157.43	60,000.00	20,845.40	0.00		
4013	INTEREST INCOME-CALTRUST	16,000.00	94,322.85	99,038.99	0.00		Groundwater Totals
4015	INTEREST INCOME-UBS	18,200.00	23,123.04	27,747.65	0.00		\$ 1,621,248
4016	INTEREST INCOME ARTP	180,000.00	440,800.07	484,880.08	0.00		
4017	ARTP CAPITAL INCOME	583,500.00	583,500.00	350,000.00	0.00	0.00%	
4022	GROUNDWATER CHARGE	712,630.95	712,630.95	753,061.42	753,061.42	100.00%	11% increase
4024	GROUNDWATER COUNCIL REVENUE	731,640.00	731,640.00	812,120.40	812,120.40	100.00%	11% increase
4026	GW SUSTAINABILITY/REPLENISHMENT	44,089.25	33,066.94	56,065.92	56,065.92	100.00%	
4031	PLANT SITE CEMEX	48,000.00	48,000.00	48,000.00	0.00		
4032	CEMEX - ROYALTY/LEASE	775,000.00	775,000.00	775,000.00	0.00		
4036	AGGREGATE MAINTENANCE	60,000.00	60,000.00	60,000.00	0.00		
4040	MISCELLANEOUS INCOME	77,000.00	77,000.00	10,000.00	0.00		
4043	PROJECT SALARY REIMBURSEMENT	15,000.00	15,000.00	15,000.00	0.00		
4050	PROPERTY TAX	137,358.53	137,358.53	141,479.29	0.00		
4055	SBVMWD LEASE AGREEMENT	449,083.42	464,628.62	483,213.76	265,767.57	55.00%	
4062	MENTONE PROPERTY INCOME	100.00	100.00	100.00	0.00		
4065	REDLANDS PLAZA	211,849.83	190,000.00	206,160.35	0.00		
4066	REDLANDS PLAZA CAM	45,707.27	45,707.27	46,621.42	0.00		
4080	EXCHANGE PLAN	30,000.00	30,000.00	30,000.00	30,000.00	100.00%	HISTORIC
4025	WASH PLAN REVENUE	439,469.00	439,469.00	200,000.00	0.00		
4999	TRUST REIMBURSEMENT WASH PLAN	50,000.00	50,000.00	200,000.00	0.00		
<b>TOTAL INCOME:</b>		<b>4,626,785.68</b>	<b>5,011,347.27</b>	<b>4,819,334.68</b>	<b>1,917,015.32</b>		
<b>EXPENSES:</b>							
5080	LAFCO CONTRIBUTION/FEES	100.00	56.78	100.00	0.00		
5120	MISC. PROFESSIONAL SERVICES	300,000.00	300,000.00	340,000.00	105,500.00		Consulting Services
5122	WASH PLAN PROFESSIONAL SERVICES	0.00	15,000.00	0.00	0.00		
5123	WASH PLAN IMPLEMENTATON (formerly	274,219.00	274,219.00	274,219.00	0.00		
5125	ENGINEERING SERVICES	50,000.00	50,000.00	50,000.00	30,000.00	60.00%	
5126	GW SUSTAINABILITY/REPLENISHMENT	44,089.25	44,089.25	56,065.92	56,065.92	100.00%	Pass through of GC cost
5127	PROJECT ACCOUNTING SERVICES	5,000.00	5,000.00	5,000.00	0.00		
5130	AERIAL PHOTO/SURVEYING/MARKET	2,310.00	2,310.00	2,425.50	0.00		
5133	Regional River HCP Contribution CIP #7	25,000.00	25,000.00	25,000.00	20,000.00	80.00%	
5143	SBVCT District Contribution	0.00	0.00	0.00	0.00		
5145	ENVIRONMENTAL SERVICES (WASH PLAN	0.00	0.00	0.00	0.00		
5155	WP TRAILS SERVICES	100,000.00	100,000.00	100,000.00	0.00		
5160	IT SUPPORT	14,400.00	14,400.00	14,832.00	6,674.40	45.00%	Share by need
5170	AUDIT	28,000.00	27,550.00	28,500.00	10,260.00	36.00%	Share based on Revenue
5175	LEGAL-WASH PLAN	10,000.00	10,000.00	10,000.00	0.00		
5180	LEGAL	25,000.00	25,000.00	25,000.00	6,250.00	25.00%	GC and COE Litigation
<b>FIELD OPERATIONS:</b>							
5210	EQUIPMENT MAINTENANCE	7,416.00	7,416.00	8,528.40	8,528.40	100.00%	based on average actual
5215	PROPERTY MAINTENANCE	40,000.00	40,000.00	40,000.00	32,000.00	80.00%	Basin Maintenance Moved
5223	TEMP FIELD LABOR	10,000.00	10,000.00	10,000.00	10,000.00	100.00%	Invasive and canal cleaning
5225	FIELD CLEAN UP-DUMPING/VECTOR	60,000.00	60,000.00	60,000.00	36,000.00	60.00%	
5050	BASIN CLEANING FORMERLY 7050 CAPITA	50,000.00	50,000.00	250,000.00	250,000.00	100.00%	

GL ACCT:                      GL DESCRIPTION:		Approved 2022-2023 Amended Budget	Projected Annual Costs (7/1/22- 6/30/23)	Draft 2023- 2024 Budget	GROUNDWATER RECHARGE ENTERPRISE		
<b>Draft 2023-2024 Budget</b>					2022 BUDGET:	% BUDGET	BASIS:
<b>VEHICLE OPERATIONS:</b>							
5310	VEHICLE MAINTENANCE	8,400.00	8,400.00	9,240.00	9,240.00	100.00%	
5320	FUEL	18,150.00	19,600.70	21,560.77	21,560.77	100.00%	Based on FY 23 Actuals
<b>UTILITIES:</b>							
5410	ALARM SERVICE	1,800.00	1,800.00	1,944.00	777.60	40.00%	FACILITIES SHARE
5420	ELECTRICITY	9,832.45	9,832.45	9,832.45	1,966.49	20.00%	FACILITIES SHARE
5430	MOBILE PHONES	5,850.00	5,850.00	5,850.00	2,925.00	50.00%	FACILITIES SHARE
5440	TELEPHONE	6,000.00	6,000.00	6,000.00	1,500.00	25.00%	FACILITIES SHARE
5450	NATURAL GAS	1,000.00	1,000.00	1,050.00	315.00	30.00%	FACILITIES SHARE
5460	WATER / TRASH / SEWER	3,790.40	3,790.40	3,904.11	1,366.44	35.00%	FACILITIES SHARE
5470	INTERNET SERVICES	2,750.00	2,750.00	2,832.50	708.13	25.00%	FACILITIES SHARE
<b>GENERAL ADMINISTRATION:</b>							
6001	GENERAL ADMIN-OTHER	4,500.00	6,000.00	6,000.00	3,000.00	50.00%	ESTIMATE BY USE
6002	WEBSITE ADMINISTRATION	6,000.00	6,000.00	6,000.00	0.00		
6004	MEETING EXPENSES	2,200.00	2,200.00	2,200.00	0.00		
6006	PERMIT FEES	10,000.00	10,000.00	15,000.00	12,750.00	85.00%	USFWS/CDFW/COE
6007	INTER DISTRICT COSTS	10,000.00	10,000.00	10,000.00	5,000.00	50.00%	
6009	LICENSES	1,709.00	1,709.00	2,000.00	1,600.00	80.00%	
6010	SURETY BOND	1,900.00	1,900.00	1,900.00	0.00		
6012	OFFICE MAINTENANCE	5,101.60	8,000.00	10,000.00	0.00		
6013	OFFICE LEASE PAYMENT	50,000.00	50,000.00	50,000.00	10,000.00	20.00%	Share by allocation
6015	MENTONE HOUSE MAINTENANCE	3,850.00	3,850.00	4,000.00	0.00		
6016	REDLANDS PLAZA MAINTENANCE	35,000.00	35,000.00	35,000.00	0.00		
6026	REDLANDS PLAZA CAM EXPENSES	41,612.65	41,612.65	42,861.03	0.00		
6018	JANITORIAL SERVICES	10,400.00	10,400.00	10,500.00	0.00		
6019	JANITORIAL SUPPLIES	375.00	375.00	375.00	150.00	40.00%	FACILITIES SHARE
6020	VACANCY MARKETING-REDLANDS PLAZA	5,000.00	5,000.00	5,000.00	0.00		
6027	COMPUTER SOFTWARE	34,314.12	34,314.12	25,000.00	2,500.00	10.00%	FACILITIES SHARE
6030	OFFICE SUPPLIES	5,500.00	13,500.00	10,000.00	500.00	5.00%	FACILITIES SHARE
6033	OFFICE EQUIPMENT RENTAL	9,500.00	8,000.00	8,000.00	400.00	5.00%	FACILITIES SHARE
6036	PRINTING	2,500.00	2,500.00	2,500.00	1,000.00	40.00%	
6039	POSTAGE AND OVERNIGHT DELIVERY	1,200.00	1,200.00	1,200.00	300.00	25.00%	
6042	PAYROLL PROCESSING FEES	3,002.09	3,500.00	3,500.00	0.00		
6045	BANK INVESTMENT SERVICE CHARGES	750.00	750.00	750.00	0.00		
6051	UNIFORMS	3,025.00	3,025.00	3,115.75	2,181.03	70.00%	Field Uniforms
6060	OUTREACH	60,000.00	60,000.00	60,000.00	12,000.00	20.00%	share by mission
6087	EDUCATIONAL REIMBURSEMENT	5,000.00	5,000.00	5,000.00	0.00		
6090	SUBSCRIPTIONS/PUBLICATIONS	2,400.00	2,400.00	3,000.00	0.00		
6091	PUBLIC NOTICES	3,200.00	3,200.00	3,200.00	2,560.00	80.00%	
6093	MEMBERSHIPS	24,776.15	24,776.15	25,364.28	0.00		
<b>BENEFITS:</b>							
6110	VISION INSURANCE	3,169.97	3,169.97	3,169.97	1,740.31	45%	Based on percent of hours
6120	WORKER'S COMP INSURANCE	18,185.07	18,185.07	21,437.11	11,768.97	45%	Based on percent of hours
6130	DENTAL INSURANCE	11,227.52	11,227.52	10,959.08	6,016.53	45%	Based on percent of hours
6150	MEDICAL INSURANCE	251,727.10	251,727.10	271,181.40	148,878.59	45%	Based on percent of hours
6150.01	MEDICAL EMPLOYEE CONTRIBUTION	-28,211.94	-28,211.94	-41,288.07	-18,579.63	45%	
6160	PAYROLL TAXES - EMPLOYER	104,028.85	104,028.85	120,309.44	66,049.88	45%	Based on percent of hours
6170	PERS RETIREMENT	229,254.91	247,156.14	219,260.00	120,373.74	45%	Based on percent of hours

GL ACCT:                      GL DESCRIPTION:		Approved 2022-2023 Amended Budget	Projected Annual Costs (7/1/22- 6/30/23)	Draft 2023- 2024 Budget	GROUNDWATER RECHARGE ENTERPRISE		
<b>Draft 2023-2024 Budget</b>					2022 BUDGET:	% BUDGET	BASIS:
6170.01	PERS EMPLOYEE CONTRIBUTION	-53,775.95	-53,775.95	-62,179.30	-27,980.69	45%	
6170.02	457 Plan EMPLOYEE CONTRIBUTION	0.00	-124,099.84				
<b>SALARIES:</b>							
6210	OVERTIME				0.00		833,620.77
6230	REGULAR SALARIES	1,479,225.69	1,479,225.69	1,676,139.84			
Sub	Field Staff Part Time				0.00	50.00%	Salary+overhead 22% time
Sub	Field Supervisor	93,682.06	93,682.06	104,175.72	127,094.38	100.00%	Salary+overhead 22% time
Sub	Field Operations Spec I	60,086.21	60,086.21	69,388.80	84,654.34	100.00%	Salary+overhead 22% time
Sub	Field Operations Spec I	48,995.11	48,995.11	57,824.00	63,490.75	90.00%	Salary+overhead 22% time
Sub	Lands Resources Mgr.	145,000.00	145,000.00	172,523.69	84,191.56	40.00%	Salary+overhead 22% time
Sub	Admin Services Spec.	90,393.80	90,393.80	100,521.24	49,054.37	40.00%	Salary+overhead 22% time
Sub	Senior Admin Analyst	98,500.00	98,500.00	109,541.79	33,410.24	25.00%	Salary+overhead 22% time
Sub	Senior Engineer (Part-time)	83,520.00	83,520.00	98,542.77	24,044.44	20.00%	Salary+overhead 22% time
Sub	District Engineer	130,000.00	130,000.00	153,372.38	56,134.29	30.00%	Salary+overhead 22% time
Sub	Assistant Engineer	70,000.00	70,000.00	86,481.57	31,652.26	30.00%	Salary+overhead 22% time
Sub	Assistant Engineer/Biologist	70,000.00	70,000.00	74,500.44	45,445.27	50.00%	Salary+overhead 22% time
Sub	Legal Counsel	265,253.40	265,253.40	294,966.45	107,957.72	30.00%	Salary+overhead 22% time
Sub	General Manager	250,000.00	250,000.00	277,994.66	101,746.05	30.00%	Salary+overhead 22% time
Sub	Clerical (Part-time)	25,000.00	25,000.00	25,599.13	0.00	0.00%	Salary+overhead 22% time
Sub	Doc Imaging Intern	15,731.76	15,731.76	17,614.08	8,595.67	40.00%	Salary+overhead 22% time
sub	Engineering/GIS Intern	16,531.68	16,531.68	16,546.56	8,074.72	40.00%	Salary+overhead 22% time
sub	Biology Intern	16,531.68	16,531.68	16,546.56	8,074.72	40.00%	Salary+overhead 22% time
<b>INSURANCE:</b>							
6310	PROPERTY / AUTO INSURANCE	5,070.18	6,071.24	6,374.80	4,781.10	75.00%	Approximate from Insurer
6320	GENERAL LIABILITY INSURANCE	36,423.18	45,387.74	46,295.49	34,721.62	75.00%	Approximate from Insurer
<b>DIRECTOR'S EXPENSES:</b>							
6401	DIRECTOR'S FEES	100,800.00	100,800.00	105,600.00	0.00		
6410	MILEAGE	4,400.00	4,400.00	4,840.00	0.00		
6415	AIR FARE	3,125.00	3,125.00	3,906.25	0.00		
6420	OTHER TRAVEL	550.00	550.00	605.00	0.00		
6425	MEALS	3,850.00	3,850.00	4,235.00	0.00		
6430	LODGING	4,400.00	4,400.00	4,840.00	0.00		
6435	CONF/SEMINAR REGISTRATIONS	5,500.00	5,500.00	6,050.00	0.00		
6440	ELECTION FEES/REDISTRICTING	0.00	0.00	0.00	0.00		
<b>ADMINISTRATIVE/STAFF EXPENSES:</b>							
6510	MILEAGE	2,500.00	3,200.00	2,750.00	687.50	25.00%	Allocation basis 2011
6515	AIR FARE	4,500.00	3,000.00	4,950.00	495.00	10.00%	Allocation basis 2011
6520	OTHER TRAVEL	1,500.00	1,000.00	1,500.00	375.00	25.00%	Allocation basis 2011
6525	MEALS	3,500.00	3,500.00	3,850.00	1,347.50	35.00%	Allocation basis 2011
6530	LODGING	5,500.00	5,500.00	5,500.00	1,925.00	35.00%	Allocation basis 2011
6535	CONF/SEMINAR REGISTRATIONS	6,500.00	7,500.00	7,500.00	2,625.00	35.00%	
6600	REPLENISHMENT WATER PURCHASE GC	44,089.25	44,089.25	56,065.92	56,065.92	100.00%	
9999	Contribution toward Capital Maint.	550,000.00	550,000.00	325,000.00	0.00		Reduced Allocation
8010	Capital Reserve GWE/Rate Stabilization	0.00	0.00	0.00	0.00	100.00%	Use not contribution
<b>TOTAL EXPENSES:</b>		<b>4,242,961.53</b>	<b>4,173,782.34</b>	<b>4,522,202.66</b>	<b>1,910,491.31</b>		18%
Operating Revenue		<b>4,626,785.68</b>	<b>5,011,347.27</b>	<b>4,819,334.68</b>	<b>1,917,015.32</b>		27%
<b>NET OPERATING REVENUE</b>		<b>-383,824.15</b>	<b>837,564.93</b>	<b>297,132.02</b>	<b>6,524.01</b>		

GL ACCT:                      GL DESCRIPTION:		Approved 2022-2023 Amended Budget	Projected Annual Costs (7/1/22- 6/30/23)	Draft 2023- 2024 Budget	GROUNDWATER RECHARGE ENTERPRISE		
<b>Draft 2023-2024 Budget</b>					2022 BUDGET:	% BUDGET	BASIS:
<b>Multiyear Capital projects</b>							
7010	MATERIALS LAND & BUILDINGS	12,000.00	12,000.00	12,000.00	6,000.00	50.00% Field Security Changes	
7110	PROPERTY - CAPITAL REPAIRS	529,971.00	529,971.00	710,045.50	360,045.50	50.71% CIP #11 #15	
7120	PROPERTY - LAND PURCHASE	0.00	31,291.91	0.00			
7130	MENTONE PROPERTY (HOUSE) CAPITAL R	7,000.00	7,000.00	7,000.00	0.00		
7140	MENTONE PROPERTY (SHOP) CIP #3 b& c	450,500.00	450,500.00	850,500.00	850,500.00	100.00%	
7160	MENDOZA PROPERTY CIP\ #9 & #12 EQUIPMENT & VEHICLES	137,000.00	137,000.00	137,000.00			
7210	COMPUTER HARDWARE CAPITAL REPAIRS	52,858.39	52,858.39	1,000.00	250.00	25.00% Allocation basis 2011	
7220	COMPUTER SOFTWARE	10,000.00	10,000.00	1,000.00	300.00	30.00% Allocation basis 2011	
7230	FIELD EQUIPMENT / VEHICLES CIP #8	149,973.07	149,973.07	272,808.56	218,246.85	80.00%	
7240	OFFICE EQUIPMENT PROFESSIONAL SERVICES:	1,500.00	13,028.04	1,500.00	0.00		
7126	ARTP ENGR/PROF SERVICES #23 #31	3,212,754.00	3,212,754.00	3,212,754.00	0.00	0.00%	
7150	MILL CREEK DIVERSION PROJECT CIP #1	1,400,000.00	1,400,000.00	1,387,176.67	1,387,176.67	100.00% In WIP Acct until completion	
7151	MILL CREEK PERMITTING	202,000.00	202,000.00	202,000.00	202,000.00	100.00% One time permitting	
7438	ENGINEERING SERVICES-OTHER	125,000.00	125,000.00	125,000.00	20,000.00	16.00% Mill Creek O&M Plans	
<b>CAPITAL EXPENSE</b>		<b>6,290,556.46</b>	<b>6,333,376.41</b>	<b>6,919,784.73</b>	<b>3,044,519.02</b>		

**Attachment A Preliminary Groundwater Charge Revenue Estimates**

GWA	Date	Total Prod	Rate(s)	GW Charge	GW Council	Total Rev
51	2018.5	29,464	\$6.51/\$12.56	\$ 332,803	\$240,689	\$573,491
52	2019	18,644	\$6.51/\$12.56	\$ 215,449	\$240,689	\$456,137
53	2019.5	28,853	\$9.54/\$13.19	\$ 359,858	\$326,026	\$685,884
54	2020	23,031	\$9.54/\$13.19	\$ 286,819	\$326,026	\$612,845
55	2020.5	27,187	\$13.85	\$ 326,545	\$280,197	\$606,742
56	2021	19,609	\$13.85	\$ 306,161	\$263,484	\$569,645
57	2021.5	23,250	\$14.54	\$ 338,060	\$348,401	\$686,461
58	2022	21,022	\$14.54	\$ 305,657	\$348,401	\$654,058
59	2022.5	22,767	\$15.27	\$ 347,654	\$365,820	\$713,474
60	2023	21,662	\$15.27	\$ 330,780	\$365,820	\$696,600

No Change in GW Charge			0%	GC Income	
60	2023	21,022	\$ 15.27	\$ 321,003	GC Income
61	2023.5	22,767	\$ 15.27	\$ 347,654	<b>\$365,820.00</b>
62	2024	21,662	\$ 15.27	\$ 330,780	<b>\$365,820.00</b>
Fiscal 23-24				\$ <b>678,434</b>	<b>\$731,640.00</b>
Calendar 23				\$ 668,657	
				<b>FY TOTAL</b>	<b>\$ 1,410,074</b>

5% Increase GW Charge			5%	GC Income	
60	2023	21,022	\$ 15.27	321,003	GC Income
61	2023.5	22,767	\$ 16.03	365,036	<b>\$384,111.00</b>
62	2024	21,662	\$ 16.03	347,319	<b>\$384,111.00</b>
Fiscal 23-24				\$ <b>712,355</b>	<b>\$768,222.00</b>
Calendar 23				\$ 686,040	
				<b>FY TOTAL</b>	<b>\$ 1,480,577</b>

11% Increase in GW Charge			11%	GC Income	
60	2023	21,022	\$ 15.27	\$ 321,003	GC Income
61	2023.5	22,767	\$ 16.95	\$ 385,895	<b>\$406,060.20</b>
62	2024	21,662	\$ 16.95	\$ 367,166	<b>\$406,060.20</b>
Fiscal 23-24				\$ <b>753,061</b>	<b>\$812,120.40</b>
Calendar 23				\$ 706,899	
				<b>FY TOTAL</b>	<b>\$ 1,565,182</b>

**RESOLUTION NO. 610**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
SAN BERNARDINO VALLEY WATER CONSERVATION  
DISTRICT ESTABLISHING A GROUNDWATER CHARGE ON THE PRODUCTION OF  
GROUNDWATER WITHIN DISTRICT BOUNDARIES,  
AND MAKING CERTAIN FINDINGS RELATIVE THERETO FOR FISCAL YEAR 2023-2024**

**WHEREAS**, California Water Code, Division 21, Part 9 provides authority for the San Bernardino Valley Water Conservation District to consider and impose a groundwater charge on groundwater production within the District; and

**WHEREAS**, the California Legislature has found, in Water Code Section 75521, that such groundwater charges are in furtherance of District activities in the protection and augmentation of water supplies for users, which are necessary for the public health, welfare and safety; and

**WHEREAS**, Water Code Section 75523 allows for the use of proceeds from a groundwater charge for any District purposes, which may be authorized by law; and

**WHEREAS**, The District has presented a budget showing the needs and uses of the Groundwater Charge revenues for 2023-2024 water year; and

**WHEREAS**, at the regular meeting of the Board of Directors on March 8, 2023, the District approved and accepted an Engineering Investigation report, relating to groundwater conditions in the Bunker Hill Basin underlying the District boundaries; and

**WHEREAS**, Certain Basin Producers, as well as the District, have formed a Groundwater Council (“GC”), and in connection with that Groundwater Council have entered into the San Bernardino Basin Groundwater Council Framework Agreement (“GC Agreement”), which includes regional cooperation among its member entities to perform an annual review of the needs for, and funding of, various maintenance costs for facilities used to replenish the Bunker Hill Basin, including facilities owned or managed by the District, pursuant to an agreed Equitable Allocation formula developed as part of the GC Agreement. The GC Agreement likewise includes a mechanism for contribution by its member entities toward procuring funds to secure additional imported water supplies for recharge of the Bunker Hill Basin, when such supplies are available, the costs of which are allocated pursuant to a replenishment/sustainability component cost-sharing structure, to recharge additional imported water purchased by the GC; and

**WHEREAS**, the Preliminary Groundwater Enterprise Budget and rate recommendations were presented to the Groundwater Council on February 27, 2023, and publicly reviewed at the District’s Board meeting of February 8, 2023; and

**WHEREAS**, the California Supreme Court decision in the case of *City of San Buenaventura v. United Water Conservation District*; Case No. S226036 (“Ventura Decision”) resolved previously outstanding legal issues relating to the procedures and constitutional requirements attending the levy and collection of groundwater charges under applicable authorizing statutes, pertaining to water conservation districts like the District; and

**WHEREAS**, under that opinion, the California Supreme Court clarified that such groundwater charges are not “property related charges” under California Constitution Article XIII D (Proposition 218), but did affirm that such charges are governed by California Constitution Article XIII C (Proposition 26), such that the charge must be set at a rate that in the aggregate is no more than is necessary to cover the reasonable costs of the governmental activity for which it is charged, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity; and

**WHEREAS**, the California Supreme Court’s opinion in the Ventura Decision cast serious legal doubt on the continuing validity of the statutory differentials in groundwater charge rates provided under Water Code Section 75594, which dictates that groundwater charges for non-agricultural uses be three to five times greater than agricultural uses; and

**WHEREAS**, the District in compliance with the procedural and constitutional requirements clarified by the California Supreme Court in the Ventura Decision, shifted its groundwater charge to eliminate differentials in agricultural and non-agricultural uses, having implemented a three-year rate stabilization mechanism to ease the transition of agricultural users, who historically paid lower per acre/foot rates, to a unitary rate that is in line with current legal guidance; and

**WHEREAS**, the District provided mailed notice to all groundwater producers within its District boundaries of a public meeting held on April 12, 2023, and a public hearing held on April 26, 2023, inviting all groundwater producers and all persons interested in the condition of groundwater or surface water supplies of the District to appear and submit evidence, and inviting all water producers to examine the Engineering Investigation report; and

**WHEREAS**, the Board of Directors conducted a public meeting on April 12, 2023, and a public hearing on April 26, 2023, to receive comment and evidence submitted by the public at such hearing; and

**WHEREAS**, the District has made available by wide distribution, beginning on February 8, 2023, a Groundwater Enterprise Budget identifying the proposed use of the estimated Groundwater Charge proceeds, which will be subsequently incorporated in the District budget; and

**WHEREAS**, the Board has considered the Engineering Investigation report, applicable groundwater enterprise budgets, and considered all comments and evidence presented to it at the public meetings and hearings; and

**WHEREAS**, the District's ad valorem tax revenues are limited, and the District receives relatively low return in interest on reserves; and

**WHEREAS**, on the basis of all evidence presented, including the Engineering Investigation report and such public comment, the Board has determined that it is appropriate and in the best interests of the District and all those water users who rely, directly or indirectly, on the District's services, to levy a groundwater charge as further provided herein; and

**WHEREAS**, pursuant to a request previously received from the GC, the District is continuing within its groundwater charge for the 2023-2024 cycle a Replenishment/Sustainability component, to be imposed on entities subject to the District's Groundwater Charge that are not members of the GC. This Replenishment/Sustainability component is designed to assure that all users of the Bunker Hill Basin who profit from not only the maintenance and operation by the District of groundwater recharge facilities serving the Bunker Hill Basin, but also the acquisition and application to basin recharge of imported and supplemental water supplies funded and secured through the auspices of the GC, contribute ratably, proportionately to those contributions of the members of the GC, toward such efforts, which efforts inure to the benefit of the basin as a whole, and each of its users who benefit from the GC water supply enhancement efforts. The GC supports phasing in this charge over several years; and

**WHEREAS**, the amount of the proportionate share of non-Groundwater Council member sustainability requirements, and its cost, have been derived from the application of the Equitable Allocation Model utilized by the GC, which takes the production of producers (or their predecessors) over the rolling most recent five-year period, (currently 2017-2021), to weight evenly the considerations of the exercise of historical rights and current production patterns, for the purposes of assigning the costs of imported basin recharge enhancement by the GC, at the imported water rate of \$118.40/acre foot. For non-Groundwater Council members within the District's boundaries, this results in 1,352 acre feet of sustainability need, which amounts to a total water cost of \$160,107. Per the Western Judgment Watermaster, this group of non-Groundwater Council members' production for 2021 was a total of 6,320 acre feet. To assign a per acre foot rate of sustainability cost to actual production, the \$160,107 cost is divided by 2021 actual production from such users, yielding a per acre foot rate of \$25.33; and

**WHEREAS**, based on this calculation, the Replenishment/Sustainability component charge has been calculated, and is currently \$25.33 per acre foot. Because this represented a substantial one-time increase compared to prior District groundwater charges, this rate component has been, and is being, phased in over a five-year period, increasing 20% per year to allow for transition of payment and budgeting for affected users. As such, the proposed phase-in amount of such charge component is \$12.00 per acre foot to be applicable to the current year's groundwater charge. This amount will be revisited yearly, since groundwater charges are established annually, but the current intention is to have the Replenishment/Sustainability Component increase ratably over a five year period, until the full proportionate rate of \$25.33 is achieved; and

**WHEREAS**, the \$25.33 per acre foot figure is proportional to the benefit received by non-Groundwater Council members, because it is derived from the amount of production in 2021 of those non Groundwater Council members within the District's jurisdiction of 6,320 acre feet, which when divided by the total Equitable Allocation sustainability need attributable to such users, at 1,352 acre feet and a total cost of \$160,107, yields a per acre foot amount of \$25.33; and

**WHEREAS**, the Replenishment/Sustainability charge component will not be assessed or collected from those Riverside County producers who extract water from the basin directly under the rights adjudicated in the Western Judgment, *Western Municipal Water District of Riverside County et al. v. East San Bernardino County Water District et al.*, Riverside County Superior Court Case No. 78426, because under that judgment, the allocation of production rights of such users from the basin are fixed, and does not vary with enhanced supplies contributed by the GC or those acting in concert with it. In addition, because to the extent such users are themselves contractors under the State Water Project, and because the GC's imported supplies are secured from the San Bernardino Valley Municipal Water District's State Water Project allocation, such users are contractually precluded from State Water Project purchases from any State Water Project contractor other than their own, and as such, these users do not receive proportionate benefit from the GC's imported water supply enhancement activities.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT AS FOLLOWS:**

Section 1. As required by Water Code Section 75574, the Board hereby makes the following findings:

- A. Annual Change in Storage in those portions of the Bunker Hill Basin lying within the District's boundaries ("Bunker Hill Basin" herein), Fall 2021 to Fall 2022, is a decrease of 71,231 acre-feet or more.
- B. Accumulated Change in Storage in the Bunker Hill Basin as of the Last Day of the Preceding Water Year, June 30, 2022, (using 1993 as base year) is -651,262 acre-feet or more.
- C. Total Groundwater Production from the Bunker Hill Basin from the Preceding Water Year July 1, 2021, to June 30, 2022, is 173,565 acre-feet.
- D. Estimate of the Annual Change in Storage for the Current Water Year (July 1, 2022 to June 30, 2023) in the Bunker Hill Basin is -37,353 acre-feet or more.
- E. Estimate of the Annual Change in Storage for the Ensuing Water Year (July 1, 2023 to June 30, 2024) in the Bunker Hill Basin is -7,025 acre-feet.
- F. Average Annual Change in Storage for the Immediate Past Ten Water Years (2012-2022) in the Bunker Hill Basin is -32,099 acre-feet or more.
- G. Estimated Amount of historically Agricultural Water Withdrawn from the Groundwater Supplies of the District for the Ensuing Water Year (July 1, 2023 to June 30, 2024) is 10,961 acre-feet.
- H. Estimated Amount of historically Other-than-Agricultural Water Withdrawn from the Groundwater Supplies of the District for the Ensuing Water Year (July 1, 2023 to June 30, 2024) is 93,790 acre-feet.
- I. Estimated Amount of Water Necessary for Surface Distribution for the Ensuing Water Year (July 1, 2023 - June 30, 2024) within the Bunker Hill Basin is 72,309 acre-feet.
- J. Estimated Amount of Water Necessary for Surface Distribution for the Ensuing Water Year (July 1, 2023 - June 30, 2024) for the District is 50,684 acre-feet.
- K. The Amount of Water which is Necessary for the Replenishment of the Groundwater Supplies of the Bunker Hill Basin to maintain constant groundwater supplies for the Ensuing Water Year (July 1, 2022 to June 30, 2023) is 136,468 acre-feet.
- L. The Amount of Water which is necessary from all sources, including natural recharge, to bring the basin back to its "full" condition of 1993 is 825,082 acre-feet.

Section 2. The Board of Directors hereby finds that the entire District constitutes a single zone of benefit for the imposition of this charge. The basis for this finding is that the entire portion of the basin underlying the District boundary is fed by the same naturally occurring surface flows. Although the basin may be divided into various subparts, because of hydrogeological conditions these areas are interconnected, and water recharged by the District from its existing recharge facilities contributes to underground "flows" which eventually reach other subparts of the basin. Thus, the District's recharge inures to the benefit of users in other areas by enhancing the availability of water supplies throughout the basin. In addition, the District maintains both the availability of surface water flows for groundwater recharge, and the facilities for accommodating the recharge, whether owned by the District or by other parties pursuant to collaborative regional groundwater management efforts. The District likewise undertakes habitat enhancement and preservation measures, providing an important source of offsetting mitigation land for disturbances occasioned by the maintenance of existing groundwater recharge facilities, and the development of new ones.

Section 3. The Board finds that there is no past accumulation of the amount of water necessary to be replaced in the intake areas of the groundwater basins within the District to prevent the landward movement of salt water into the fresh groundwater body, or to prevent subsidence of the land within the District, either in the past water year or the proceeding 10 years, nor is there likely to be any amount of water necessary for these purposes in the ensuing water year. The Board further finds that the District is not obligated by contract to purchase any water, though depending on the decision-making processes of the GC, and the availability of imported water supplies, the District may be asked to help fund regional purchases of imported water to augment native water supplies, and may contribute proceeds from the collection of the sustainability component of the groundwater charge to securing imported water for recharge of the basin. The Board also finds that further recharge of the basin is required based upon the findings related to change in storage stated in Section 1 above, to prevent depletion or degradation to the basin's groundwater supplies, to enhance both the availability and accessibility of such supplies, and to replenish, augment, and protect such supplies, and that the proceeds of the groundwater charge established herein shall be used for such purposes.

Section 4. The Board of Directors hereby levies, assesses, and affixes a groundwater charge in the amount of \$16.95 per acre foot of water produced, to be applicable to all production (agricultural and non-agricultural

use). The Board imposes this unitary rate in response to, and in an attempt to comply with, the Ventura Decision, but also because the District has not historically segregated either facilities or groundwater charge-funded efforts based on agricultural vs. non-agricultural use basis. Nor has the District undertaken studies to isolate a predominantly agricultural producing zone or region within the District boundaries, and even if such an area were to be isolated, there is some question based on existing facts and circumstances whether the benefits and burdens of the District's groundwater management and replenishment services could support a rate differential based on agricultural use. The Board of Directors likewise hereby levies, assesses and affixes a Replenishment/Sustainability component of groundwater charge in the amount of \$12.00 per acre foot of water produced, to be applicable to all production (agricultural and non-agricultural use) by users within the Bunker Hill Basin who are not GC members. Late charges on delinquent accounts will be 1% interest per month in accordance with Water Code Section 75615 et seq. and any additional actual costs to collect delinquent amounts not paid by August 1, 2023, and February 1, 2024.

Section 5. Exemptions:

A. Notwithstanding the foregoing, for producers who can demonstrate that their production for the water year is restricted to basic, personal residential use limited to the property on which the applicable groundwater production facility is based, and the total cumulative production for the applicable producer within the District is not in excess of two (2) acre feet over the course of the water year; such production shall be exempted from the groundwater charge provided the producer documents its exemption prior to semi-annual collection of the groundwater charge. In establishing this exemption, the Board finds that the likely revenues to be derived from the groundwater production subject to the exemption are outweighed by the administrative burdens in administering and collecting the charge. The District General Manager is authorized to waive late fees with explanation and request from payees or if the cost of recovery outweighs the fee to be collected.

B. (1). To the extent that a party who is a member of the GC has paid a maintenance and operation charge through the Equitable Allocation based upon an approved budget for the GC that includes the maintenance and operations costs reflected in the District's budget showing the needs and uses of the groundwater charge for 2023-2024 water year, and such payment is remitted to the District, the General Manager is authorized to accept such Equitable Allocation payment as payment in full for the non-Replenishment/Sustainability component of groundwater charges due from that party's production for the applicable water year. If a GC member remits its Equitable Allocation for maintenance and operation costs to the District, but in that same water year leaves or otherwise ceases to participate in the GC, the District's then-current groundwater charges shall apply to such party's production for the entire water year, and that party's amount of the Equitable Allocation so remitted will be used as a prepayment offset for groundwater charges otherwise due from such party's production. The purpose for this credit is to assure that parties contributing to the maintenance and operations component of the GC Equitable Allocation do not double-pay for their proportionate cost of the District's services.

(2). To the extent that a party who is a member of the GC has paid a contribution for groundwater replenishment/sustainability through the Equitable Allocation based upon an approved budget for the GC that includes the purchase of imported water supplies for replenishment of the basin for 2023-2024 water year, and such payment is remitted to the GC, the General Manager is authorized to credit such Equitable Allocation payment as payment in full for the Replenishment/Sustainability component of groundwater charges due from that party's production for the applicable water year. If a GC member remits its Equitable Allocation for replenishment/sustainability to the GC, but in that same water year leaves or otherwise ceases to participate in the GC, the District's then-current groundwater charges shall apply to such party's production for the entire water year, and that party's amount of the Equitable Allocation apportioned to the GC's replenishment/sustainability activities so remitted will be used as a prepayment offset for the Replenishment/Sustainability component of groundwater charges otherwise due from such party's production. The purpose for this credit is to assure that parties contributing to the GC's replenishment/sustainability component of the GC Equitable Allocation do not double-pay for their proportionate share of such efforts.

C. The District has previously been in discussions with various Riverside County entities who propose to be Ex Officio members of the GC, and who may, by separate agreement with the District, agree to fund portions of the maintenance and operations costs of existing recharge facilities. To the extent such an agreement is reached, and a party otherwise subject to the District's groundwater charge contributes in such a way this its payment is remitted to the District; the General Manager is authorized to provide discharges and credits to such Ex Officio members in the same manner as for Groundwater Council members, provided above. The purpose for this credit is to assure that parties contributing to the maintenance and operations of the District though any such agreement do not double-pay for their proportionate cost of the District's services.

Section 6. In connection with fixing the groundwater charge as set forth in Section 4 above, the Board of Directors makes the following findings:

A. Consistent with the Ventura Decision, the District's groundwater charge is not a "property-related charge" for purposes of determining the applicability of Article XIII D of the California Constitution. Notwithstanding, the District has provided mailed notice of the proposed charge and the amounts proposed to be charged to all known groundwater producers within its jurisdictional boundaries, on February 23, 2023.

B. The groundwater charge is imposed upon the action of extraction of groundwater from the basin underlying the District's boundaries, and not on property or groundwater extraction facilities as such. The groundwater charge will be incurred by groundwater producers through their voluntary action of groundwater production. The groundwater charge is not one for water delivery by the District to groundwater extractors, but rather relates to the District's service of maintaining groundwater supplies, recharge facilities, and management of both for groundwater extractors within the District. The District maintains no pipes, canals or other facilities directly connecting District facilities to the groundwater extractors' property or pumping facilities. In addition, parties subject to the groundwater charge are predominantly either public or private entities involved in the business of providing water, or persons or entities involved in irrigation, for agricultural-related activities, and for uses of water exceeding what would be required for basic residential use of the property.

C. The District has provided notice of the proposal for imposition of the groundwater charge through several different avenues. Mailed notice was provided to all operators reflected on the District's records as containing active groundwater production facilities within the District. In addition, published notice was provided in the San Bernardino Sun and in the Redlands Daily Facts on March 3, 10 and 17, 2023. All such notices identified the prior and proposed rates, the estimated total revenue to be collected from the charge, and the time and place for public hearing at a public meeting at which parties objecting to the charge could appear and be heard. That notice also reflected the rate and method of calculation for this consumption-based charge, which provided notice of the basis of the charge.

D. The proposed groundwater charges, and Engineering Investigation report prepared by the District, were reviewed at a public meeting held April 12, 2023, and a public hearing held April 26, 2023. In addition, the District's Groundwater Enterprise budget was presented to and reviewed with the Board of Directors at a public meeting on February 8, 2023, was discussed at the Groundwater Council on February 27, 2023, and was approved by the District's Board on March 8, 2023.

E. The groundwater charge is being levied to assist in offsetting the costs of the District's Groundwater Enterprise in providing groundwater supplies, groundwater recharge facilities, and recharge management and administration for the benefit of groundwater producers within the District. The Groundwater Enterprise Budget includes, but is not limited to, funding the following:

1. Making available the District's Santa Ana River water rights, in an amount no less than 10,400 acre per feet per year, for recharge into the Bunker Hill Basin;
2. Conducting groundwater recharge activities by diverting both Santa Ana River and Mill Creek water supplies into District's recharge facilities;
3. Applying the District's experience and expertise in directing groundwater recharge effectively and efficiently, administering the physical recharge of groundwater both directly for the District and its water supplies, and recharging on behalf of other entities, including State Project Water and exchanges under the Santa Ana River/Mill Creek Cooperative Water Project Agreement;
4. Maintaining and operating the District's diversion works, recharge basins and canals to ensure the availability of sufficient infrastructure to accommodate needed groundwater recharge; and defense and protection of the District's water rights and manner of operations; and performing such maintenance of other parties' diversion works, recharge basins and canals as requested and per prior agreements.
5. Pursuing various environmental permits and related permissions to continue the maintenance and operation of the District's Facilities for the future and to provide for potential expansion of facilities for Bunker Hill Basin recharge, including the preservation, enhancement, and management of habitat areas;
6. Investigation and implementation of improvements to groundwater measurement and recharge infrastructure;
7. Reporting to groundwater producers and other interested parties of groundwater recharge activities and conditions;

8. Conducting engineering analyses, such as the District's annual Engineering Investigation, designed to provide information regarding the Bunker Hill groundwater basin and the District's groundwater recharge facilities;
9. Participating in, and serving as the accounting arm for the collection of, both facilities maintenance and operations funds and contributions for the GC; and Replenishment/Sustainability funds, for proportionate contribution to import water supply efforts by producers who are not members of the Groundwater Council, but who still benefit from the regional efforts at maintaining Bunker Hill Basin groundwater supplies;
10. Administrative support, training and overhead for all the above-listed activities.

F. The total amount of estimated revenues from the groundwater charge, including the Replenishment/Sustainability component, is estimated at approximately \$1,565,182 based on production reported for the 2022-2023 water year. In addition, the District has been approved by the GC to receive some \$200,000 as pass-through costs for maintenance and upkeep of various GC recharge facilities for a total of \$1,762,228. This amount does not consider offsets as provided in Section 5(b)(1) and (2) above for GC members. The specific total amount of groundwater charge revenues from non-GC members cannot be accurately stated at this time, because the amount of credits for GC member Equitable Allocations are dependent on yearly budgeting by the GC. Based on last year's Equitable Allocation determinations, however, applied to production from the 2022-2023 water year from non-GC members, the estimated groundwater revenues from non-GC members is \$61,044. These revenues do not fully recover expected cost and will not exceed the costs of providing the services as detailed above, in that the District's Groundwater Enterprise Budget for fiscal year 2023-2024 proposes total expenditures of \$2,060,896. The remaining funds are to be paid by the District's capital and groundwater reserves, lease payments from Valley District and Western and Exchange Plan management reimbursements.

G. The amount of groundwater charge paid by each individual payor will not exceed the benefit of the Conservation District's services to such parties, because the structure of the groundwater charge is such that the amount paid varies in direct proportion to the amount of groundwater supplies extracted, and therefore is proportional to the benefit each individual payor receives from the District's services, and the burden each producer puts on the basin, ratably to such user's production.

Section 7. Notwithstanding Water Code Section 75523, and to assure the proportionate benefit of the Replenishment/Sustainability charge between those who pay it and those who are members of the Groundwater Council, all revenues collected by the District from the Replenishment/Sustainability component will be separately accounted for and maintained in a discrete fund by the District, and shall not be commingled with any other District funds or revenues. The proceeds of such Replenishment/Sustainability charge shall be devoted and applied exclusively to Bunker Hill Basin maintenance and water supply enhancement efforts in conjunction with the Groundwater Council, whether by way of direct payment to the Groundwater Council in connection with such efforts, or as directly applied by the District in cooperation with the Groundwater Council toward such efforts.

Section 8. The Board of Directors further finds that the groundwater charge adopted herein is statutorily exempt from CEQA under Title 14, California Code of Regulations Sections 15273, 15301, and 15306. The action contemplated herein constitutes a structuring and establishment of a charge which will be used in part for meeting operating expenses and for purchasing or leasing equipment and materials. To the extent the groundwater charge revenues will be applied to groundwater testing, these activities fit within Title 14, California Code of Regulations Section 15306. Such activities involve the occasional taking of groundwater samples by means of temporary equipment, which will not cause any alteration to the land, and consist solely of information gathering. To the extent any portion of the funds is directed to maintenance, operation, or repair of existing facilities, involving no or negligible expansion of existing uses, these activities fit within Title 14, California Code of Regulations Section 15301. To the extent any portion of the funds is directed to construction or establishment of new facilities, environmental review of such facilities will occur at such time those facilities are proposed, and the nature, location, scope, and function of such potential future facilities becomes known. Under each of the above-referenced exemptions, therefore, the Board of Directors finds that the levy and implementation of the groundwater charge is properly exempt from CEQA.

Section 9. The General Manager is hereby authorized and directed to provide notice to operators of the levy of the groundwater charge, as provided for in Water Code Section 75610.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Board of Directors this 26<sup>th</sup> day of April 2023, by the following roll-call vote:

YES: DIRECTORS:

NO:  
ABSTAIN:  
ABSENT:  
ATTEST:

DIRECTORS:  
DIRECTORS:  
DIRECTORS:

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Melody McDonald, President

---

Betsy Miller, Secretary

DECLARATION OF MAILING OF GROUNDWATER CHARGE NOTICES

I Rebecca Martin, do hereby declare as follows:

1. I am employed by the San Bernardino Valley Water Conservation District as an Administrative Assistant. I am aware of the facts set forth below from personal knowledge, unless otherwise specifically indicated, and if called upon to do so, could and would competently testify to the same under oath.
2. On February 23rd, 2023, and in that capacity, I caused to be mailed the notice, in the form attached hereto as Exhibit A, to each and every address listed on Exhibit B. I am informed and believe, and based thereon allege, that this list reflects the district's last known mailing address for each reporting groundwater producer within its jurisdictional boundaries.
3. I personally deposited these notices in the U.S. Mail, for first class delivery, on February 23<sup>rd</sup>, 2023.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed this 4 day of April 2023 at Redlands, CA,

A handwritten signature in blue ink, appearing to read "Rebecca Martin", is written over a horizontal dashed line. The signature is stylized and cursive.

Rebecca Martin

# EXHIBIT A



# San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

February 23, 2023



You are being provided a copy of this notice because our records reflect you are the owner or operator of a groundwater producing well in the San Bernardino Valley Water Conservation District's ("District") jurisdictional boundaries.

The District has completed the 2023 Engineering Investigation (EI) of the Bunker Hill Basin. The Draft EI was presented to the Board at its February 8th Board Meeting and will be presented to the Board for approval at its March 8th Board of Directors meeting to be held at the District Office, 1630 West Redlands Boulevard, Suite A, Redlands CA 92373 at 1:30 p.m. This report is completed in connection with the Board of Directors' consideration of a groundwater charge on groundwater production within the Conservation District's boundaries. Article 1, Section 75560 of the California Water Code, requires that a water conservation district that proposes to levy or continue a groundwater extraction fee "...shall annually cause to be made an engineering investigation and report upon groundwater conditions of the District." A copy of the Conservation District's 2023 EI report is available for review online at the District's website at <http://www.sbvwd.org/reports-and-data/engineering-investigation.html> or at the District's office at 1630 West Redlands Blvd., Suite A, Redlands, CA.

This notice is provided to advise all interested parties that District staff has recommended a rate increase of 11% for the upcoming water year in the base groundwater charge and a continued five-year phase in of the replenishment assessment component; the District's Board of Directors has approved this rate for noticing. The staff proposed a unitary groundwater charge for 2023-2024 of \$16.95 per acre-foot (af) for all groundwater production. As requested by the San Bernardino Basin Groundwater Council ("Council"), the District is also considering an increase to the Replenishment/Sustainability component to the groundwater charge, to be imposed on entities subject to the District's Groundwater Charge that are not members of the Council. The Council supports phasing in this charge over several years. The proposed amount of such component is \$20 per acre foot but for the upcoming water year is proposed at the phase-in rate of \$12 per acre foot. The rates proposed pertain to all groundwater production from July 1, 2023-June 30, 2024. The groundwater charge is not imposed on a property parcel basis, but rather is a per acre-foot charge, which relates directly to the amount of groundwater produced from wells overlying the groundwater basin within the District's boundaries. Consequently, the ultimate amount of groundwater charge to be paid by individual operators cannot be precisely identified now, because it will depend directly upon the amount of groundwater produced in the basin from July 1, 2023 to June 30, 2024. The

1630 W. Redlands Blvd, Suite A  
Redlands, CA 92373  
Phone: 909.793.2503  
Fax: 909.793.0188  
[www.sbvwd.org](http://www.sbvwd.org) Email: [info@sbvwd.org](mailto:info@sbvwd.org)

**BOARD OF  
DIRECTORS**

Division 1:  
Richard Corneille

Division 2:  
David E. Raley

Division 3:  
Robert Stewart

Division 4:  
John Longville

Division 5:  
Melody McDonald

**GENERAL  
MANAGER**

Betsy Miller

estimated total amount of revenues from the groundwater charge is approximately \$1,565,182, based on estimated production of acre feet for the 2023-24 water year. The total amount of revenues from the sustainability component is \$61,044 [\$12 times the estimated production from non-GC members in the District of 5,087 acre feet]. The groundwater charge is collected on a semi-annual basis, based on production statements operators submit for their groundwater production. The District uses the proceeds of the groundwater charge to fund ongoing groundwater replenishment of the basin, including direct water recharge, facility operations repairs and maintenance, and related costs.

A public meeting and public hearing on the imposition of proposed groundwater charge at the rates provided above, or other rate the Board may determine to be appropriate, will be held in the District's Board Room located at 1630 West Redlands Blvd., Suite A, Redlands, CA 92373. The date and time for the public meeting will be April 12, 2023, at 1:30 pm. The date and time of the public hearing will be held on April 26, 2023, at 1:30 pm. The District will also be asked on April 26, 2023 to make a finding that the imposition of the groundwater charge is exempt from CEQA, under title 14, C.C.R. Sections 15273, 15301, and 15306.

You are invited to attend the public meeting and public hearing and may submit any objection or protest you may have to the charge, or any evidence concerning groundwater conditions, water supplies of the Conservation District, rates, the CEQA exemption findings, or any matter relating to the proposed groundwater charge. You may also submit such matters to the District in writing any time at or before the 1:30 pm scheduled time of the Public Hearing on April 26, 2023, by providing such written communication to the District's Administrative Specialist, Athena Laroche, at the address given above, for hard copies, or for digital transmissions, to [athena@sbvwcd.org](mailto:athena@sbvwcd.org). Late submissions will not be considered. Please be advised that in any later judicial or other action challenging the groundwater charge, you may be limited to those grounds raised either in writing or in person prior to the close of the public hearing, and the administrative record of the proceedings on the consideration of the charge. Please also be advised that pursuant to California Government Code section 53759 and other provisions of law, there is a 120-day statute of limitations for challenging any new, increased, or extended fee or charge, including the District's proposed groundwater charge covered in this notice.

Further inquiries regarding the report or the groundwater charge, or requests for further documents or information, may be directed to Betsy Miller at 1630 West Redlands Blvd., Suite A, Redlands, CA 92373, or by telephone at (909) 793-2503.

Sincerely,



Betsy Miller,  
General Manager

# EXHIBIT B

GW Address List

OWNER	Contact Name	Address	City, State, Zip	Electronic	Do Not Print
AHD Limited	Ed Haddad	422 Weir Rd. Front Office	San Bernardino, CA 92408		
Arrowhead Country Club	Mike Nguyen	3433 Parkside Drive	San Bernardino, CA 92404	TRUE	TRUE
Calvary Chapel Packinghouse	Pastor Ed Rea	27165 San Bernardino Ave	Redlands, CA 92374		
Cemex USA	Attn: Christine Jones	4120 E. Jurupa St., Suite 202	Ontario, CA 91764		
Crafton Water Company	Kristy Hoover	101 East Olive Ave	Redlands, CA 92373		TRUE
Cram Patterson Well Co	Ron Arnott	P.O. Box 544	Mentone, CA 92359		TRUE
Gage Canal Company	Rebecca Macklin	7452 Dufferin Ave	Riverside, CA 92504		
Doug Guyette	Linda Guyette	25222 Redlands Blvd.	Loma Linda, CA 92354		
DRC Industrial CBC 1, LP	Velia Oliver	10459 Mountain View Ave, Ste H	Loma Linda, CA 92354	TRUE	TRUE
Gage Canal Company	Debra Burns	7452 Dufferin Ave	Riverside, CA 92504		
George & Diane Everett		1342 Jasper Ave	Mentone, CA 92359		
George Meadows	Maria Meadows	1332 Opal Ave	Mentone, CA 92359		
Gladysta Well & Water Company	Laura Ramirez	P.O. Box 1525	Loma Linda, CA 92354		TRUE
Greenspot Mutual Well Company	Ron Arnott	P.O. Box 544	Mentone, CA 92359		TRUE
Happe Mutual Well Company	Kristy Hoover	101 E. Olive Ave	Redlands, CA 92374		
Inland Valley Development Agency	Alka Chudasama	294 S. Leland Norton Way	San Bernardino, CA 92408	TRUE	TRUE
Jack Dangermond	Attn: Shareholder Accounting	P.O. Box 7538	Redlands, CA 92375		
Laranni Gunter Well c/o Canyon Ranch	Daniel Kurihira	25522 Allen Way	Loma Linda, CA 92354		TRUE
Lucky Farms, Inc.	Julio Ortiz	P.O. Box 985	Loma Linda, CA 92354		
Meeks & Daley Water Co.	Attn: Parag Kalaria	P.O. Box 3000	Lake Elsinore, CA 92531-3000		
Mentone Citrus Growers	Mike Perricone	36437-B Carney Rd	Valley Center, CA 92082	TRUE	TRUE
Mrioland Management Services, INC	Maggie Roland	3752 Park Blvd. #701	San Diego, CA 92103		
Monte LLC	Attn: Shareholder Accounting	P.O. Box 7538	Redlands, CA 92375		
Montecito Memorial Park and Mortuary	Kenny Pantoja	3520 E. Washington St	Colton, CA 92324		
Mountain View Mortuary and Cemetary	Jaime Hernandez	570 E. Highland Ave	San Bernardino, CA 92404		
Mountainview Generating Station	Bruce Mackenzie	2492 W. San Bernardino Ave.	Redlands, CA 92374	TRUE	TRUE
National Orange Show	Sheri Raborn	689 South E Street	San Bernardino, CA 92408	TRUE	TRUE
New England Water Co.	Edward Sousa	233 Grandview Dr	Redlands, CA 92373		TRUE
Patton State Hospital	George Nash	3102 E. Highland Ave	Patton, CA 92369		
Pioneer Mutual Water Co.	Bert Marcum	1104 E. Pioneer Ave	Redlands, CA 92374		
Piperhill Redlands LLC	Laura Ramirez	P.O. Box 826	Mentone, CA 92359		
Ramirez, J. J. Citrus Mgmt	Laura Ramirez	P.O. Box 1525	Loma Linda, CA 92354		
Ramirez, Laura	Laura Ramirez	P.O. Box 1525	Loma Linda, CA 92354		TRUE
Raught Mutual Well Company	Charlotte Van Eck	101 East Olive Ave	Redlands, CA 92373		
Redland-Branson Development	Stacy Lai	711 S. Brea Blvd	Brea, CA 92821		
Redlands Unified School District	Arnold Regalado	P.O. Box 3008	Redlands, CA 92373		
Redlands, City of	Cecilia Griego	P.O. Box 3005	Redlands, CA 92373	TRUE	TRUE
Riverside, City of	Todd Jorgenson	2911 Adams Street	Riverside, CA 92504	TRUE	TRUE
San Bernardino County Flood Control	David Lovell	825 E. Third Street	San Bernardino, CA 92415	TRUE	TRUE
San Bernardino Valley MWD	Tom Holcombe	380 E. Vanderbilt Way	San Bernardino, CA 92408		
County of San Bernardino	Steven Pamintuan	200 S. Lena Road	San Bernardino, CA 92415		

Solono Well Company	Ron Armott	P.O. Box 544	Mentone, CA 92359	
Splash Kingdom Waterpark/The California Gate	Frank Mistretta Jr.	846 W. Foothill Blvd, Suite G	Upland, CA 91786	
Sun Life Financial/Bentall Kennedy	Tom Pedulla CRE	One Sun Life Executive Park, SC 1309	Wellesley Hills, MA 02481	TRUE
Tennessee Mutual Well Company		233 Grandview Drive	Redlands, CA 92373	TRUE
Tennessee Water Company	Pete Marcum	233 Grandview Drive	Redlands, CA 92373	
TIAA-CREF Financial Services	Ted Dickerson-CBRE	3501 Jamboree Road Suite 100	Newport Beach, CA 92660	TRUE
Trojan Groves	John Thomas	21202 Kroll Lane	Huntington Beach, CA 92646	
University of California, Riverside	Susan Marshburn	3401 Watkins Drive	Riverside, CA 92521	
Williams Well Corporation, LTD		233 Grandview Drive	Redlands, CA 92373	TRUE

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT  
BOARD OF DIRECTORS MEETING

MINUTES OF APRIL 12, 2023  
1:30 p.m.

President McDonald called the Board of Directors meeting to order at 1:30 p.m. by in-person, teleconference, and Zoom meeting. All those in attendance stood for the pledge of allegiance led by President McDonald.

ROLL CALL:

BOARD MEMBERS PRESENT:

Melody McDonald, President  
Robert Stewart, Vice President  
Richard Corneille, Director  
David E. Raley, Director

BOARD MEMBERS ABSENT:

John Longville, Director

GENERAL COUNSEL PRESENT:

David Cosgrove, District Counsel

STAFF PRESENT:

Betsy Miller, General Manager  
Milan Mitrovich, Land Resources Manager  
Katelyn Scholte, Principal Engineer  
Erwin Fogerson, ARTP Engineer  
Athena Laroche, Administrative Specialist

GUESTS PRESENT:

T. Milford Harrison, San Bernardino Valley Regional Water Agency  
June Hayes, San Bernardino Valley Regional Water Agency  
Paul Kielhold, San Bernardino Valley Regional Water Agency  
Trevor Slazas  
Shane Sibbet, Elsinore Valley Municipal Water District

1. PUBLIC PARTICIPATION

President McDonald announced that any persons present, who so desired, may make an oral presentation to the Board of Directors. There being none, the meeting continued with the posted agenda items.

2. ADDITIONS/DELETIONS TO AGENDA

There were no additions and deletions to the posted agenda.

3. GUEST RECOGNITIONS/SELF INTRODUCTIONS

Ms. Miller introduced staff present, President McDonald introduced guests present via Zoom and in-person. Board members made self-introductions.

4. PUBLIC MEETING RELATED TO ADOPTION OF THE GROUNDWATER CHARGE

Mr. Cosgrove provided a verbal overview of the groundwater rate selection process, as detailed in the memo on package page 6. The draft groundwater resolution is shown on package page 21. He indicated that the proposed increase to the groundwater charge is 11%, to a total unitary amount of \$16.95 per acre-foot. In addition, the sustainability component is recommended to increase from \$7.35 to \$12.00 per acre-foot, representing a step increase following the approved phase-in approach. Mr. Cosgrove noted that the Draft Engineering Investigation report was presented to the Board on February 8, and the final was approved on March 8. The groundwater budget has been presented to the Groundwater Council (GC). He noted that the Engineering Investigation Report presentation is available for presentation today if requested. No Board member or member of the public requested the presentation. The notices for today's public meeting and the April 26 public hearing have been published in the Redlands Daily Facts and the San Bernardino Sun. Mr. Cosgrove noted that mailed notices have been sent out to groundwater producers. He indicated that a detailed budgetary review of the groundwater enterprise was presented to the Board on February 8, and that those documents are included in today's package.

President McDonald opened the public meeting. No public comments, written or verbal, have been received on the groundwater charge to date. She asked if any public wished to comment on the groundwater charge or Engineering Investigation Report. Director Stewart proposed clarifying language to state that the groundwater increase of 11% will result in a total rate of \$16.95 per acre-foot, not an increase of \$16.95 per acre-foot. He asked for additional information regarding the sustainability rate. Ms. Scholte reviewed the sustainability charge calculation, which is based on the Equitable Allocation Model. This amount is recalculated each year based on the five-year rolling average of production, and the value fluctuates from year to year. The current calculation has the sustainability rate at \$25 per acre-foot, pending GC approval.

**It was moved by Director Raley and seconded by Vice President Stewart to continue this matter to the April 26 Groundwater Public Hearing with minor revisions to Resolution No. 610. The motion carried 4-0, with all Board members present voting in the affirmative. Director Longville was absent from the vote.**

**President McDonald: Yes  
Vice President Stewart: Yes  
Director Corneille: Yes  
Director Longville: Absent**

**Director Raley: Yes**

President McDonald closed the Public Meeting.

5. CONSENT CALENDAR

**It was moved by Director Corneille and seconded by Vice President Stewart to approve the Consent Calendar: Item A: Board Minutes, March 8, 2023; Item B: Expenditure Report, March 2023; and Item C: Absence Excusal for Board Member, March 8, 2023. The motion carried 4-0, with all Board members present voting in the affirmative. Director Longville was absent from the vote.**

**President McDonald: Yes  
Vice President Stewart: Yes  
Director Corneille: Yes  
Director Longville: Absent  
Director Raley: Yes**

6. COMMITTEE REPORTS/ACTION ITEMS

A. FINANCE & ADMINISTRATION COMMITTEE VERBAL UPDATE

Director Raley provided a verbal update on this item. He stated that the Finance & Administration Committee met on March 22. They discussed the 3<sup>rd</sup> Quarter Unaudited Financial Report through March 14 since the Committee met before the quarter ended, and the Quarterly Investment Report was provided through February 28. The Committee reviewed a preliminary draft of the District budget for Fiscal Year 2023-2024. Staff requested a new field vehicle to replace the 2014 F-150, and the Committee supported this request. The funds to purchase the new truck will come from the capital budget for field equipment and vehicles. Director Corneille asked for a budget projection on how we will end the year. Ms. Miller said that it was discussed in general; a complete analysis was prepared through the end of the fiscal year. She indicated that overall, the District budget is coming in as projected. She noted that GL-4012-15: Interest Income is higher than budgeted, and there were increased costs in basin maintenance and field vehicle maintenance. The costs and progress of the Mentone Shop project were also discussed. The groundwater enterprise and groundwater charge were reviewed. Director Corneille requested more information on the bottom line to be presented. President McDonald thanked Director Raley for his report.

B. OPERATIONS COMMITTEE VERBAL UPDATE

Director Corneille provided a verbal update on this item. The Operations Committee met on March 28. He said that the Field Supervisor provided a PowerPoint presentation on field operations. He said that the soft plugs were replaced in Mill Creek three times due to higher-than-average precipitation, and the recharge basins are full. Ms. Scholte said that a small amount of overflow is going to the Judson Brown property and from D dike towards Plunge Creek. The Committee discussed the Mentone Shop, Mill Creek

Diversion Project, and the Program for Expansion of Recharge Capacity (PERC) projects which will be discussed later on the agenda. They reviewed the Wash Plan Trails next steps which are currently waiting on the City of Redlands, City of Highland, CEMEX, and Robertson's to review and approve the five-party funding agreement before we can move forward. Public access on the trails will also be affected by construction on the Enhanced Recharge Project.

C. 3<sup>RD</sup> QUARTER UNAUDITED FINANCIALS FOR 2022-2023

Ms. Miller reviewed this item, beginning on package page 58. She said the GL-4012-15: Interest Income is above budget due to higher interest rates. There have been no changes to date to LAIF or CERBT. There has been an increase of approximately \$14,000 in CalTrust and a slight decrease in funds invested with UBS. GL-4040: Miscellaneous Income is higher than budgeted due to funds received from the D.R. Horton Settlement Agreement. GL-5052-53: Field Operations are higher than anticipated, partially due to an unbudgeted pass-through payment the District made on behalf of the GC. These funds were held in reserve on behalf of the GC, so there is no overall budget impact, and the item will be adjusted at year-end. There has been an increase in GL-5310: Vehicle Maintenance due to inflation and an increase in the amount of maintenance needed this year. Ms. Miller indicated that, as discussed with the Finance & Administration Committee, staff will budget for purchase of a replacement vehicle for the 2014 F-150 in FY24. There is an increase in GL-6001: General Admin-Other related to preparing currently vacant Suite K (Vacant) to be advertised and leased, and a water leak in Suite I. Most of the costs for the water leak are anticipated to be covered by the tenant's insurance and/or ACWA JPIA. Ms. Miller said that the Mentone Shop purchase is expected to be expended to GL-7140: Mentone Property (Shop) prior to the end of the fiscal year. The Committee reviewed the 3<sup>rd</sup> Quarter Unaudited Financial Reports and Quarterly Investment Report and recommended both for Board approval. Ms. Miller noted that a US Treasury Bill matured on March 16, and the District invested those funds in a Federal Housing Bill that is paying 6% and is callable monthly.

**It was moved by Director Corneille and seconded by Director Raley to approve the 3<sup>rd</sup> Quarter Unaudited Financials for 2022-2023, including the Quarterly Investment Report. The motion carried 4-0, with all Board members present voting in the affirmative. Director Longville was absent from the vote.**

**President McDonald: Yes  
Vice President Stewart: Yes  
Director Corneille: Yes  
Director Longville: Absent  
Director Raley: Yes**

D. UNAUDITED FINANCIAL REPORT, MARCH 2023

Ms. Miller introduced this item for discussion, noting its inclusion on package page 64. She indicated that the interest income remains above budget due to market factors. She said that the District has received lower payments from miners and Upland Rock over the past two months and has budgeted accordingly for FY24. Groundwater revenue is below budget due to it being a wet year. Director Raley asked if the

reduction in mining income was due to the rain. Ms. Miller indicated that the reason for lower mining income had not been identified. Director Stewart asked what other income falls under GL-4040: Miscellaneous Income. Ms. Miller said that the funds from D.R. Horton Settlement Agreement, funds received on the Trust's behalf as a pass-through payment, and other non-recurring items are included.

**It was moved by Vice President Stewart and seconded by Director Corneille to approve the Unaudited Financial Reports from March 2023. The motion carried 4-0, with all Board members present voting in the affirmative. Director Longville was noted absent from the vote.**

**President McDonald: Yes  
Vice President Stewart: Yes  
Director Corneille: Yes  
Director Longville: Absent  
Director Raley: Yes**

E. ACWA 2023 BOARD OFFICERS' ELECTION VOTING DELEGATE

**It was moved by Director Corneille and seconded by Vice President Stewart to appoint President McDonald as the voting delegate for the ACWA 2023 Board Officers' Election Voting Delegate. The motion carried 4-0, with all Board members present voting in the affirmative. Director Longville was noted absent from the vote.**

**President McDonald: Yes  
Vice President Stewart: Yes  
Director Corneille: Yes  
Director Longville: Absent  
Director Raley: Yes**

7. INFORMATION ITEMS

A. ENVIRONMENTAL UPDATE

Mr. Mitrovich provided an update on this item, noting its inclusion on package pages 74 to 77. He reviewed the Slender-horned Spineflower (SHSF) Monitoring Program, noting that staff is performing phenology checks. A phenology check is where staff looks at the growth stage of individual SHSF plants. This will help staff schedule surveys to ensure that the population is monitored at its peak, and allow appropriate time for seed collection. Mr. Mitrovich noted that a reserve-wide survey for SHSF will be implemented this year. He reviewed the SHSF Restoration Program. President McDonald expressed her interest and support regarding genetic work being done to help identify the diversity of the SHSF. Mr. Mitrovich said that staff are working with California Botanic Garden on the seed bulking program, and to provide tissue from the SHSF for them to perform genetic work on the species. Director Stewart asked if staff is using data they collect to identify preferred soil types for the species. Mr. Mitrovich stated that

soil seems critical to where they may or may not be successful, and noted that the soil collected for the San Bernardino Area Kangaroo Rat (SBKR) analysis would also support this effort. The recently completed vegetation map of the wash will also support where new populations could be started based on soil characteristics. President McDonald praised staff for their efforts.

Mr. Mitrovich reviewed the Mill Creek Programmatic Permits, noting that the District received its approved jurisdictional delineation recognizing the waters at the Mill Creek facilities as isolated and non-jurisdictional on March 17; therefore, the facilities do not need a 404 permit.

Mr. Mitrovich reviewed the Community Mitigation Program. On April 4, the District received letters from CDFW of approval for the Trust to serve as the land manager, and the District to serve as the conservation easement grantee for the San Bernardino County Transportation Authority (SBCTA) 210 Freeway project. This determination clears the path for successful movement through the escrow process. Mr. Cosgrove said that the District transfers the easement to SBCTA, which will be held by the Trust, with land management conducted by the District. President McDonald expressed her appreciation for the partnerships the District and Trust are establishing as we move through this process. Director Stewart asked if staff keeps track of the acreage and its location. Mr. Cosgrove stated that the easements are recorded with legals, and Mr. Mitrovich confirmed that staff track all easement locations. This item was received and filed.

#### B. WASH PLAN TRAILS STATUS REPORT

Ms. Miller introduced this item for discussion, noting its inclusion on package page 78. Staff have not received feedback from the City of Redlands or the mining partners on the five-party agreement but will continue to follow up. She indicated that several planned trail alignments are within or adjacent to the Enhanced Recharge Project construction area. When reviewing what trails we can open after approval of the agreement, the District will identify locations that are safe to open during construction. This item was received and filed.

#### C. ENGINEERING UPDATE

Ms. Scholte introduced this item for discussion, noting its inclusion on package page 79. She reviewed the Mentone Shop, stating that the architect is working on comments received on the permit applications from San Bernardino County (County), and that a deposit has been paid for the building. Ms. Scholte said that the County indicated that sprinklers would not be required. The nearest hydrant is 400 to 500 feet from the Mentone Shop. Staff is also working on obtaining quotes for installing a new septic system and moving the fence. The Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the U.S. Army Corps of Engineers 408 permit were signed on March 30. Staff is working on the 404 permit now that the EA is complete and has reapplied for the CDFW 1600 permit.

The 5x17 gate has been delivered for Mill Creek Diversion. The construction contract special provisions have been completed, and quantities are being verified as the bid package is being prepped.

Ms. Scholte provided an update on the Enhanced Recharge Project, noting that a preconstruction meeting was held at San Bernardino Valley Regional on March 29. Field staff are working to dry the Borrow Pit (Pit) to ensure areas are available for construction staging.

Ms. Scholte noted that staff has been working on the average annual flood analysis for the PERC projects. Mr. Fogerson stated that he and Ms. Scholte met with SBCFCD staff to discuss the collaborative nature of these projects. The seismic refraction study for Cook Creek is complete, and the geotechnical work at Plunge and Oak Creek has been completed.

#### D. PERC STATUS REPORT NO. 13

Mr. Fogerson reviewed the PERC Status Report No. 13 on package page 80. He reviewed the planned activity as noted on package page 83. He said that for the Mill Creek PERC site, consultants are working on hydraulics and modeling the proposed improvements. Staff is overseeing consultants who are developing the average annual rainfall for Plunge Creek, Bledsoe, Waterman, and Twin Creek, and preparing the hydraulic models. SBCFCD has approved the one-hundred-year model. Discussion ensued on modeling. Ms. Miller expressed her appreciation for the engineering team, and thanked them for their in-depth review of the reports received from consultants and for consultant management. Director Corneille thanked the engineering team for their efforts on behalf of the Operations Committee and PERC Policy Committee.

#### E. BOARD PRESIDENT MONTHLY VERBAL UPDATE

President McDonald passed on this item.

#### F. GENERAL MANAGER'S REPORT AND MONTHLY RECHARGE REPORT

Ms. Miller indicated that the written General Manager's Report was included in the Board package on pages 85 through 87. The Santa Ana River Recharge is currently 27,514 AF, Mill Creek Recharge is 6,140 AF, Plunge Creek is 2,095 AF; this includes 1,135 AF received of SWP water. Ms. Miller said that President McDonald and herself attended the ACWA Region 9 Tour of the Salton Sea on March 27. On March 7, District staff provided a full-day tour of the Wash to Orange County (OC) Public Works team, who oversee mitigation activities for the OC Flood Control District. The tour covered groundwater recharge facilities, Seven Oaks Dam, and the natural resource areas in the Wash with focus on the Plunge Creek Conservation Project. On March 15, The District met with staff from the San Bernardino County Museum of Natural History to discuss a joint water-wise demonstration garden. On March 20, Milan presented "Monitoring and Managing for Endangered and Threatened Species at the Wildlife Urban Interface: A Percent Area Occupied (PAO) Approach" at the International Association for Landscape Ecology - North American Annual Meeting, held March 19-23 at the Riverside Convention Center.

She noted that a letter of support for SB23 was submitted by the District and is included on package page 88. Director Corneille recommended sending a copy of the support letter to Senator Rosilicie Ochoa Bogh. The District has partnered with IERCD and the San Bernardino County Museum of Natural History to host a community project for Redlands Earth Day on April 22, 2023, suggested by Director Corneille who is helping to organize Earth Day activities for the voluntary climate action group called Accelerate Neighborhood Climate Action. More details on the event, titled “Water You Waiting for? Landscaping with Water-Conscious Native Plants”, can be found online at redlandsearthday.org. The Ad Hoc GM Evaluation Committee met on April 10 to review the general manager’s performance, and this item will be brought to the May 17 Board meeting for consideration. Because of the excused absences of Vice President Stewart and Director Corneille from the Board/Groundwater Public Hearing on April 26, the Board postponed the Budget Workshop to May 17 immediately following the Board meeting, and will approve the District Enterprise Budget in June. Discussion ensued regarding recharge in the basin. Director Raley requested an update on the Groundwater Council (GC). Ms. Miller provided a brief overview and stated that because of the GC, 44,000 AF of water has been purchased of SWP water this year and will be recharged into the basin. The Monthly Recharge Report is included on package page 90. This item was received and filed.

#### G. STRATEGIC PLANNING VERBAL UPDATE

Ms. Miller noted that a survey has been emailed to the Board and staff for completion. Ellen Cross from Strategy Driver will contact Board members for a phone interview and requests that surveys be submitted by April 20.

#### H. FUTURE AGENDA ITEMS AND STAFF TASKS

President McDonald asked for an update on well levels. Vice President Stewart asked for the appropriate cap to be set for reserve levels. Staff will bring the reserve levels forward for Board review and consideration at the Budget Workshop on May 17.

#### 8. MONTHLY BOARD MEMBER MEETING REPORTS AND/OR BOARD MEMBER COMMENTS

Vice President Stewart attended the Big Bear Watermaster Committee on March 21, Finance & Administration Committee on March 22, and Operations Committee on March 28. He attended the Basin Technical Advisory Committee (BTAC) on April 3, Loma Linda Chamber of Commerce Breakfast on April 5, and the Dawn of a New Generation Celebration hosted by Valley Regional on April 5. He attended the Valley Regional Policy/Administration Workshop on April 6. He requested to be excused from the April 26 meeting because of his travel plans.

President McDonald attended the Valley Regional Board meeting on March 11, the Dawn of a New Generation Celebration hosted by Valley Regional on April 5, and the Valley Regional Policy/Administration Workshop on April 6. She attended the Association of San Bernardino County Special Districts Board (ASBCSD) meeting on April 10, ACWA Region 9 Tour of the Salton Sea on March

27, the ACWA State Legislative Committee on March 24, and ACWA Legislative Symposium on March 23. She attended the Valley Municipal Board meeting on March 21, the Retirement of Patricia Slaven from ACWA/JPIA on March 15, and the Groundwater Council meeting and ASBCSD Board meeting on March 13. She attended the Special meeting of the ACWA State Legislative Committee on March 8.

Director Corneille attended the Redlands Chamber of Commerce (RCC) Legislative Forum on March 17, Operations Committee on March 28, and the University of Redlands Climate Change Forum on March 29. He attended the Dawn of a New Generation Celebration hosted by Valley Regional on April 5, Rise N Shine on April 7, and the Ad Hoc GM Evaluation Committee on April 10. He requested to be excused from the April 26 meeting because of his travel plans.

Director Raley attended the Rise N Shine on April 7, Legislative Breakfast on March 23, and RCC Legislative Forum on March 17. He attended the Finance & Administration Committee on March 22.

#### 9. UPCOMING MEETINGS

The Budget Workshop has been moved from April 26 to May 17, immediately following the Board meeting.

#### 10. CLOSED SESSION

**It was moved by Vice President Stewart and seconded by Director Corneille to adjourn to Closed Session. The motion carried 4-0, with all Directors present voting in the affirmative. Director Longville was noted absent from the vote.**

**President McDonald: Yes  
Vice President Stewart: Yes  
Director Corneille: Yes  
Director Longville: Absent  
Director Raley: Yes**

General Counsel announced that the meeting would adjourn to a closed session to discuss all posted agenda items.

At 3:58 p.m. the meeting reconvened into open session. Mr. Cosgrove noted that there was no reportable action during the closed session.

#### 11. ADJOURN MEETING

**It was moved by Vice President Stewart and seconded by Director Corneille to adjourn. The motion carried 4-0, with all Directors present voting in the affirmative. Director Longville was noted absent from the vote.**

**President McDonald: Yes**  
**Vice President Stewart: Yes**  
**Director Corneille: Yes**  
**Director Longville: Absent**  
**Director Raley: Yes**

At 3:58 p.m. the meeting adjourned to the Board meeting/Groundwater Public Hearing scheduled for 1:30 p.m. on April 26, 2023, in-person, teleconference, and Zoom meeting.

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Betsy Miller  
General Manager



**San Bernardino Valley  
Water Conservation District**

Helping Nature Store Our Water

Memorandum No. 1932

**To: Board of Directors**

**From: Katelyn Scholte, Principal Engineer**

**Date: April 26, 2023**

**Subject: Project Charter for Mill Creek Diversion and Debris Management Improvement Project**

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**RECOMMENDATION**

Staff recommends approval of the updated Project Charter for the Mill Creek Diversion and Debris Management Improvement Project.

**BACKGROUND**

The Mill Creek Diversion and Debris Management Improvement Project is a capital improvement project that the Board authorized in 2014 by charter in the annual budget process. As part of the process to obtain a Section 408 Permit from the U.S. Army Corps of Engineers, certain changes have been made since the Project Charter was updated in February 2018.

**DISCUSSION**

The project permitting process is nearing completion with issuance of the U.S. Army Corps of Engineers 404 and 408 permits anticipated in the next few months. Staff is finalizing the bid packet to advertise the project in late spring for construction in late summer of 2023. The updated Project Charter includes the estimated total costs and amounts expended to date. The updated Project Charter calculates an ROI of 5% and a payback period of 9.6 years.

**FISCAL IMPACT**

Staff time to prepare the updated Project Charter was minimal.

**POTENTIAL MOTIONS**

1. Move to approve the updated Project Charter for Mill Creek Diversion and Debris Management Improvement Project.
2. Suggest changes and move to approve the revised document.
3. Move to request this item be tabled to the Operations Committee for review.

**ATTACHMENTS OR MATERIALS**

Project Charter for Mill Creek Diversion and Debris Management Improvement Project

### Scope

The goal of the Mill Creek Diversion Debris Management Project (Project) is to modify the existing upper diversion system at the San Bernardino Valley Water Conservation District’s Mill Creek Groundwater Recharge Facility in order to direct debris and creek bed sediments back to the Mill Creek channel system, while allowing the water to be rerouted to the existing spreading grounds for groundwater recharge. The Project will maintain water diversion during high flow events, limit impacts to diversion from debris, and limit loss of recharge and costs due to sediment accumulation. This Project compliments the PERC projects being undertaken with San Bernardino County Flood Control District and San Bernardino Valley Municipal Water District, and was presented to the BTAC for review and comment.

### Project Budget

Action	Budget	Expended	Remaining
Design	\$260,000	\$243,337	\$16,663
Environmental Permitting and Procurement	\$120,000	\$116,886	\$3,114
Encroachment Permitting	\$100,000	\$95,463	\$4,537
Construction	\$1.9M	\$93,143	\$1,806,857
Mitigation	\$150,000	-	\$150,000
Procurement and Construction Management	\$265,000	-	\$265,000
Monitoring and Post Construction Management	\$50,000	-	\$50,000
Estimated total	\$2.8M	\$548,849	\$2,296,171

### Project Benefit Analysis

- Additional water recharge estimated at 4,661 acre feet (AF) over ten years based on assuming 20 days of 50 CFS flows, 50 days of 20 CFS flows, and 35 days of 10 CFS flows
- Average capital water cost is \$600/AF based on the capital costs and estimated additional water recharge over 10 years
  - At \$350/AF, the additional water recharge value is estimated at \$1,631,350 over 10 years.
- Removes estimated capital maintenance/sand management costs of \$130,000/year
- ROI is 5% and payback is 9.6 years

## Approvals Required

### Permitting Options

At project inception, the Board considered the benefits and constraints associated with various permitting approaches, including a project-specific permit under Section 7 of the federal Endangered Species Act (ESA), inclusion of the project within Valley District’s Upper Santa Ana River HCP (issued under ESA Section 10, or a new HCP covering facility operations and maintenance activities. Given the requirement for a U.S. Army Corps 408 permit, the project was able to utilize the associated Section 7 consultation for ESA compliance. Permitting has been undertaken by District staff and consultants.

<b>Regulating Agency</b>	<b>Permit Type</b>	<b>Status</b>
SBVWCD	CEQA (includes AB52 cultural consultation)	Complete
Regional Water Quality Control Board	401 Permit	Complete
Regional Water Quality Control Board	Waste Discharge Requirements	Complete
Flood Control Levee Encroachment and U.S. Army Corps of Engineers	408 Certification (includes Environmental Assessment under NEPA)	In process
San Bernardino Flood Control District	Access Permit	Pending 408
U.S. Army Corps of Engineers	404 Permit	Pending 408
USFWS	Section 7 (Endangered Species) Section 106 (Cultural)	Via COE Section 404
CDFW	1602 Streambed Alteration Agreement	Reapplied
Regional Water Quality Control Board	Stormwater Pollution Prevention Plan	To be completed by contractor

### Schedule Summary

- Year 1-2: 60% design drawing for permit applications – Complete
- Year 2-7: Permit issuance – Spring/Summer 2023 (pending 408)
- Year 7-8 Construction/Operations – Summer 2023 (earliest construction date)

### Policy Decisions and Considerations

The Board may consider the following:

1. Cooperation with Partners – The Board may consider inclusion of additional site-specific projects within the PERC program – Complete
2. Permitting – The Board considered several approaches for joint or individual project permitting and directed staff to apply for permits – Complete
3. Project Procurement – Following project design and permitting, the Board may consider directing staff to initiate procurement – Spring/Summer 2023

4. Selection and Construction Budget – The Board may consider award of a contract for construction of the Project and setting the construction budget based on bids and contingency – Summer 2023
5. Construction Management and Oversight – The Board may consider contracting for procurement support and construction management and oversight to ensure sufficient resources for timely project execution – Summer 2023

## 2023 Board Calendar - San Bernardino Valley Water Conservation District

JANUARY						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Jan. 11 Board Meeting  
 Jan. 24 Operations Committee Mtg.  
 Jan. 25 2<sup>nd</sup> Qtr. Finance & Admin Mtg.

JULY						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Jul. 12 Board Meeting  
 Jul. 25 Operations Committee Mtg.  
 Jul. 26 4<sup>th</sup> Qtr. Finance & Admin Mtg.

FEBRUARY						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

Feb. 8 Board Meeting  
 Feb. 9 Ad Hoc Trails Committee  
 Feb. 13 Outreach Committee

AUGUST						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Aug. 9 Board Meeting

MARCH						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Mar. 8 Board Meeting  
 Engineering Investigation Report Presentation  
 Mar. 22 3<sup>rd</sup> Qtr. Finance & Admin Mtg.  
 Mar. 28 Operations Committee Mtg.

SEPTEMBER						
S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Sept. 13 Board Meeting

APRIL						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Apr. 12 Board Meeting  
 Public Meeting/Groundwater Charge  
 Apr. 26 Board Meeting  
 Public Hearing/Groundwater Charge

OCTOBER						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Oct. 10 Operations Committee Mtg.  
 Oct. 11 Board Meeting

MAY						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

May 17 Board Meeting  
 May 17 Budget Workshop  
 (Immediately following Board meeting)

NOVEMBER						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Nov. 8 Board Meeting  
 Nov. 15 1<sup>st</sup> Qtr. Finance & Admin Mtg.

JUNE						
S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Jun. 14 Board Meeting

DECEMBER						
S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Dec. 13 Board Meeting  
 (@ 9:30 a.m.)  
 Annual Luncheon