



San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

BOARD OF DIRECTORS MEETING AGENDA

Wednesday, June 12, 2024 – 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: 846 8609 6002

To join the Zoom Meeting on <https://us02web.zoom.us/j/84686096002>

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.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

1. PUBLIC PARTICIPATION

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

2. ADDITIONS/DELETIONS TO AGENDA

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

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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

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. CONSENT CALENDAR

- A. Approval of Board Minutes, May 15, 2024.....5
- B. Approval of Expenditure Report, May 202416
- C. Report of Excused Absences
 - o Vice President Stewart, June 12, 2024 Board Meeting

5. COMMITTEE REPORTS /ACTION ITEMS

Committee Reports

- A. OPERATIONS COMMITTEE VERBAL UPDATE - 5 minutes
Presenter: Richard Corneille, Operations Committee Chair
Recommendation: The Operations Committee will provide a verbal update of the meeting held on May 21.

Action Items

- B. UNAUDITED FINANCIAL REPORTS FOR MAY 2024 – 5 Minutes (M#2030).....26
Presenter: Angie Quiroga/Betsy Miller
Recommendation: Review and approve the unaudited financials for May 2024.
- C. SETTLEMENT AGREEMENT IN ENDANGERED HABITATS LEAGUE LITIGATION
 – 5 Minutes (M#2031).....32
Presenter: David Cosgrove
Recommendation: Approve the revised Settlement Agreement negotiated through mediation in the suit *Endangered Habitats League, et al. v. U.S. Army Corps of Engineers, et al.*, Case No. 2:16-CV-09178-MWF-E, and authorize the Board President to sign it on behalf of the District.
- D. CEMEX TEMPORARY AGREEMENT TO HARMONIZE GROUNDWATER RECHARGE AND MINING OPERATIONS– 5 Minutes (M#2032).....60
Presenter: David Cosgrove
Recommendation: Authorize the General Manager to enter into a Temporary Agreement to Harmonize Mining and Groundwater Recharge Operations with Cemex Construction Materials Pacific, LLC (“Cemex”), for a three-month period effective May 1, 2024, to allow Cemex to offset its costs of groundwater pumping against guaranteed annual rental amounts, as part of a joint effort by Cemex and the District to assure recharge of all available groundwater supplies, while preserving mining operations from high groundwater conditions.
- E. GENERAL MANAGER BONUS AND SALARY ADJUSTMENT – 5 Minutes
 (M#2033).....68
Presenter: David Cosgrove
Recommendation: The Ad Hoc GM Evaluation Committee recommends that the Board, consistent with the compensation provisions of her employment contract, approve an increase the General

Manager’s base salary in the amount of Twenty-Two Thousand Eight Hundred Thirty-Two dollars and Twenty-Four cents (\$22,832.24), which represents the cost-of-living percentage adjustment given to all District employees of 3.6 percent (3.6%) and a five percent (5%) merit increase; and approve a merit bonus payment of \$15,000.

F. ACKNOWLEDGMENT OF SERVICE OF DAVID E. RALEY AND DIRECTION TO STAFF UNDER GOVERNMENT CODE SECTION 1780 – 5 Minutes (M#2034).....72

Presenter: David Cosgrove

Recommendation: With heavy hearts and abundant gratitude, acknowledge Director David E. Raley’s leadership and service to the District, and direct staff to proceed with appointment of a successor to serve until the next general election, pursuant to Government Code procedures governing vacancies on elected special district boards.

6. INFORMATION ITEMS:

- A. Environmental Update.....74
- B. Engineering Update.....77
- C. PERC Policy Committee Status Report No. 18.....79
- D. General Manager’s Report and Monthly Recharge Report – 5 Minutes.....90
- E. Future Agenda Items & Staff Tasks

7. MONTHLY BOARD MEMBER MEETING REPORTS, AND/OR BOARD MEMBER COMMENTS

8. UPCOMING MEETINGS:

- A. June 17, 2024 Association of San Bernardino County Special District Dinner hosted by Chino Basin Water Conservation District, 6:00 pm The Old Spaghetti Factory in Rancho Cucamonga
(Topic: Scaling Up Success with Waterwise and California Native Landscapes for Commercial, Municipal, and Institutional Properties)
- B. June 17-20, 2024 Toward Sustainable Groundwater in Agriculture 3rd International Conference Linking Science & Policy hosted by Water Education Foundation in Burlingame, CA
(Board Approval Required)
- C. July 4, 2024 Office Closed in Observance of Fourth of July
- D. July 10, 2024 Board of Directors Meeting, 1:30 p.m. at Conservation District
(Zoom Meeting ID: 846 8609 6002)
- E. July 16, 2024 Big Bear Watermaster Committee, 11:00 a.m. at Big Bear Municipal Water District
(Zoom Meeting ID: 839 9548 4124)

- F. July 17, 2024 San Bernardino Valley Conservation Trust Quarterly Meeting, 2:00 p.m. at Conservation District
(Zoom Meeting ID: 841 9759 4280)
- G. July 24, 2024 Finance & Administration Committee, 1:30 p.m. at Conservation District
(Zoom Meeting ID: 886 6464 5742)
- H. August 6, 2024 Operations Committee, 9:00 a.m. at Conservation District
(Zoom Meeting ID: 858 9266 1134)
- I. October 3-4, 2024 H2O Women Conference, Santa Barbara, CA
(Board Approval Required)
- J. December 10-12, 2024 National Habitat Conservation Planning Coalition 2024 Annual Meeting in Palm Springs, CA
(Board Approval Required)

9. **CLOSED SESSION**

1. The Board may meet in Closed Session under Government Code section 54956.8, to discuss the terms and conditions of the 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 Dara Glass is the lead negotiator for BLM.

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 authority of Government Code section 54957 (b) to consider the report of the ad hoc committee for the General Manager performance review, and to conduct the annual performance evaluation of the General Manager.

10. **ADJOURN MEETING.** The next regularly scheduled Board of Directors Meeting will be on July 10, 2024 at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA and via Zoom/teleconference.

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS MEETING

MINUTES OF MAY 15, 2024
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
John Longville, Director

BOARD MEMBERS ABSENT:

David E. Raley, Director

STAFF PRESENT:

Betsy Miller, General Manager
Milan Mitrovich, Land Resources Manager
David Cosgrove, District Counsel
Angie Quiroga, Senior Administrative Analyst
Laura Torres, Assistant Engineer
Athena Laroche, Administrative Specialist
Zach Blum, Intern
John Lambie, Consulting Chief Engineer and Geohydrologist
Anna Frey, Assistant Biologist

GUESTS PRESENT:

David E. Smith, East Valley Water District
Michael Moore East Valley Water District
Paul Kielhold, San Bernardino Valley Municipal Water District
Cindy Saks, San Bernardino Valley Municipal Water District
Willow Green, Tetra Tech

1. PUBLIC PARTICIPATION

President McDonald announced that any persons present, who so desired, may make an oral presentation to the Board of Directors. Director Smith of East Valley Water District (EVWD) spoke about the opening of Sterling Natural Resource Center (SNRC), which SNRC provides approximately 6 million gallons of recycled water for recharge per day. He introduced Michael Moore, General Manager of

EVWD. Mr. Moore spoke affirmatively of services provided by the Conservation District, noting that eighty percent of the water supplied by EVWD is from the groundwater basin. Mr. Moore thanked the Conservation District for their efforts, and presented the Board with a pennant commemorating the Turning of the Valve ceremony held by EVWD to celebrate opening SNRC. He provided an overview of the SNRC and offered a tour for the Board and staff who are interested. President McDonald commended EVWD on their SNRC project and the award they received from ACWA for the project, and thanked EVWD for their partnership in supporting regional water supply reliability.

2. ADDITIONS/DELETIONS TO AGENDA

Mr. Cosgrove requested that Item F: Settlement Agreement in Endangered Habitats League Litigation be deleted from the agenda. Staff intend to bring this item to the Board in June.

3. GUEST RECOGNITIONS/SELF INTRODUCTIONS

The Board and staff made self-introductions. President McDonald introduced Zoom attendees.

4. CONSENT CALENDAR

It was moved by Director Corneille and seconded by Director Longville to approve the Consent Calendar: Item A: Board Minutes, April 24, 2024; Item B: Budget Workshop Minutes, April 24, 2024; Item C: Expenditure Report, April 2024; and Item D: Report of Excused Absences for Director Longville for his absence from the Board of Directors Meeting and Budget Workshop, April 24, 2024, and Director Raley for today's Board meeting absence. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

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

5. COMMITTEE REPORTS/ACTION ITEMS

A. FINANCE & ADMINISTRATION COMMITTEE VERBAL UPDATE

Ms. Quiroga noted that the Finance & Administration Committee met on April 16. They reviewed the third quarter unaudited financial reports, current District memberships, planned expansion of the District Office, draft FY25 budget, and considered policy for reporting over budget line items. The Committee also reviewed the basin cleaning budget amendment for FY24.

B. OPERATIONS COMMITTEE VERBAL UPDATE

Director Corneille provided a verbal update on the Operations Committee meeting that was held on April 17. He said that the Committee received an update on the Mentone Shop; at that time, Ms. Scholte stated that the building was expected to be delivered in three weeks. Ms. Torres reported that the building is now expected to arrive on June 14. The Committee received an update on the Enhanced Recharge construction project, including details on the additional basins that are now in operation. The Committee reviewed the prioritized maintenance list, and a field tour was convened after the conclusion of the meeting. Additionally, the Committee reviewed the vector control contract and discussed the Zanja restoration and grant application for the Program for the Expansion of Recharge Capacity (PERC) project.

C. AD HOC GM EVALUATION COMMITTEE VERBAL UPDATE

Vice President Stewart noted that the Ad Hoc GM Evaluation Committee met on April 30. The committee reviewed the District successes with the General Manager and priority projects over the last year. Additional information will be discussed in closed session.

D. UNAUDITED FINANCIAL REPORTS FOR APRIL 2024

Ms. Quiroga reviewed this item, noting its inclusion beginning on package page 26. She said there was an increase in GL 4025 Wash Plan Revenue of \$231,924; \$160,626 will be moved to GL 4999 Trust Reimbursement-WP. GL 4041 Reimbursed Expenses includes \$65,945 for the Suite I insurance claim. GL 5100 Professional Services increased by approximately \$94,000 for contracted natural resources tasks. GL 5215 Property Maintenance increased by an estimated \$12,000 for contracted weed abatement services. GL 6320 General Liability Insurance was adjusted by -\$7,747 for annual accruals, with additional accruals made at the end of the fiscal year.

Ms. Quiroga reviewed package page 27, noting that total revenue was \$6,877, 882 and expenses were \$3,190,111. She reviewed the enterprises to date and graph financials shown on package page 28. She noted that the cash position increased by \$11,920. There will be a payment made to San Bernardino Valley Municipal Water District (SBVMWD) of \$131,930 from GL 4026 Groundwater Sustainability/Replenishment this month. President McDonald requested confirmation that GL 6401 Directors' Fees are within budget. Ms. Quiroga spoke in the affirmative.

It was moved by Vice President Stewart and seconded by Director Longville to approve the Unaudited Financial Reports for April 2024 as presented. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

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

E. THIRD QUARTER UNAUDITED FINANCIALS FOR FY24

Ms. Quiroga introduced this item at the beginning of package page 33. The Finance & Administration Committee reviewed the third quarter unaudited financials at their April 16 meeting and recommended Board approval of this item as presented. She reviewed the rolled-up version of the quarterly financials beginning on package page 35, which includes totals through March 31. The total revenue received through the end of the quarter is \$6,661,231, and total expenses are \$2,877,234. She reviewed the capital budget on package page 36, noting that capital expenses were \$2,531,220 through the quarter. It is expected that capital budget expenditures will be approximately \$4 million by year-end.

Ms. Quiroga reviewed the Quarterly Investment Report beginning on package page 37. This quarter, the net change is \$974,575, including an unrealized gain of \$314,739. The cash equivalent for this quarter was \$52,268. Ms. Quiroga noted that package page 38 shows the breakdown of our UBS investment accounts for the General Fund Enterprise, with the market value of \$5,568,830 as of March 31. The total interest withdrawals for the third quarter were \$90,047 for the General Fund. She reviewed the UBS investments for the PERC on package page 39. The market value as of March 31 is shown as \$28,215,518. The total interest withdrawals for PERD for the third quarter were \$312,528.

It was moved by Vice President Stewart and seconded by Director Longville to approve the Third Quarter Unaudited Financials for FY24 as presented. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

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

F. SETTLEMENT AGREEMENT IN ENDANGERED HABITATS LEAGUE LITIGATION

This item was deleted from the agenda, and is expected to be considered at the June 12 Board meeting.

At Mr. Cosgrove's request, President McDonald asked if any public present would like to comment on this item. There was no public comment received.

G. CONTRACT WITH THE COUNTY OF SAN BERNARDINO DEPARTMENT OF PUBLIC HEALTH FOR VECTOR CONTROL SERVICES

Ms. Miller introduced this item for discussion, noting its inclusion on package page 72. She provided a brief history of the vector control services contract, which was originally entered into in 2019. Staff and the Operations Committee recommend a five-year contract extension; the contract is included on package pages 74 to 80. The total contract is \$266,370, to be expended over a five-year term.

It was moved by Director Longville and seconded by Director Corneille to approve a five-year Contract with the County of San Bernardino Department of Public Health for vector control services in an amount not to exceed \$266,370. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

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

H. AMENDMENT TO AGREEMENT FOR CONSULTING ENGINEERING SERVICES WITH E-PUR LLC

This item is included beginning package page 81. Ms. Miller reviewed this item, noting that Mr. Lambie has contributed to the PERC and groundwater modeling projects. Staff proposes an extension to Mr. Lambie's contract dba E-PUR LLC for up to six months in an amount not to exceed \$118,646. The agreement is included on package pages 83 to 84.

It was moved by Director Longville and seconded by Director Corneille to authorize the Amendment to the Agreement for Consulting Engineering Services with E-PUR LLC to support PERC and other District engineering needs in an amount not to exceed \$118,646. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

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

I. AWARD OF CONTRACT SERVICES FOR SANTA ANA SPREADING BASIN MAINTENANCE

Ms. Miller introduced this item, noting its inclusion on package page 85. This item was reviewed and recommended for approval by the Operations Committee and Finance & Administration Committee. She reviewed previous maintenance performed and the need to clean Basin 10 and 18 (D Dike) due to sediment and algae buildup within the basins following a record recharge year. Staff proposes that the work be conducted at the same time as basins are dried to allow for Enhanced Recharge project construction, to limit the time that basins will be out of service. Ms. Miller said that the proposed agreement with Larry Jacinto Construction for spreading basin maintenance is for an amount not to exceed \$320,603. She indicated that the proposed work would be funded through the Groundwater Recharge Enterprise Reserve. Mr. Cosgrove noted that a revised version of Exhibit A was provided to the Board as a handout. Director Corneille spoke in support of the approval of this item, noting it is an appropriate use of reserves. President McDonald thanked staff for bringing this item forward to

the Board. Ms. Miller thanked Ms. Torres for her efforts on this task, including work to obtain quotes and coordinate with contractors.

It was moved by Director Longville and seconded by Director Corneille to authorize the General Manager to enter into a contract services agreement with Larry Jacinto Construction for spreading basin maintenance for a not to exceed amount of \$320,603.75, in the form attached, subject to revisions to amounts as may be negotiated by the General Manager and minor revisions as approved by General Counsel; amend the FY24 budget to increase GL 5050 Basin Maintenance by \$320,603.75 from the Groundwater Recharge Enterprise Reserve; find the project to be exempt from CEQA review under title 14 CCR section 15301, relating to maintenance of existing facilities; and direct staff to file a Notice of Exemption accordingly with the revised Exhibit A provided as a handout. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

President McDonald: Yes

Vice President Stewart: Yes

Director Corneille: Yes

Director Longville: Yes

Director Raley: Absent

J. MENTONE SHOP IMPROVEMENTS CONSTRUCTION BUDGET AND CONTRACT AMENDMENT

Ms. Miller introduced this item for discussion. She thanked Ms. Torres for managing the Mentone Shop construction, which began on March 26. Ms. Miller stated that additional items required by the permit, which were not included in the original contract, will result in additional costs. Staff proposes an amendment to the CS-NK Construction contract from \$313,373 to \$480,966 to address these new items required by the permit as detailed on package page 100. Staff requests that the contingency fund, not included in the agreement, be added in the amount of \$43,816 for the construction phase. The fiscal impact discussed on package page 100 incorrectly indicates that approval of this item would result in an expenditure of \$61,171 instead of the \$161,171, for a total project cost of \$586,671. Director Corneille asked for details on the cost increases from \$313,373 to \$480,966, noting the significant increase in the contract amount. Ms. Torres stated that project permits required more excavation than anticipated for the foundation, as well as construction of a sidewalk around the new building. Additional costs include the addition of drive-up aprons, the price of septic, and material costs that have increased due to inflation. Ms. Torres said that the bid was obtained two years ago and that costs have increased due to material and permitting delays. Director Corneille asked for additional information on the schedule. Ms. Torres said she is working with the contractor to obtain an updated schedule prior to the concrete pour. Vice President Stewart said that he does not believe a ten percent contingency is warranted at this stage in construction.

It was moved by Director Longville and seconded by Director Corneille to approve an amendment to CS-NK Construction contract from \$313,373.40 to \$480,966.21; amend a contingency fund, not included in the agreement, to

\$10,000 for the construction phase for building contract contingency and \$7,000 for design phase contingency; authorize the General Manager to approve the expenditure of the contract and contingency funds, if needed, and order any necessary changes or additions in work performed under the contract with CS-NK Construction; authorize the General Manager to spend up to \$98,000 to obtain permits, additional fencing, general cabinetry and shelving, fuel and pesticide storage; and perform field testing; and accept the quote from CS-NK Construction Services in the amount of \$34,740 for the septic tank installation and permitting at the Mentone Shop. The motion carried 4-0, with all Board members present voting the affirmative. Director Raley was absent from the vote.

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

K. U.S. BUREAU OF RECLAMATION WATERSMART PLANNING AND PROJECT DESIGN GRANT APPLICATION AND MATCHING FUNDS

Ms. Miller introduced this item for discussion, which is included on package page 105. Staff is currently preparing an application for the U.S. Bureau of Reclamation WaterSmart Planning and Project Design Grant. If awarded, the grant could cover up to \$359,322 in reimbursable expenses for FY24, FY25, and FY26 for the Mill Creek Program of Expansion of Recharge Capacity project.

It was moved by Director Longville and seconded by Director Corneille to adopt Resolution No. 623 and authorize the use of \$359,322 in contract costs in FY24, FY25, and FY26 under Capital GL 7126, PERC Engineering/Professional Services as matching funds for the U.S. Bureau of Reclamation WaterSmart Planning and Design Grant. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

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

L. DISTRICT ENTERPRISE BUDGET APPROVAL FOR FISCAL YEAR 2024-2025

Ms. Miller introduced this item for discussion, beginning package page 109. The revisions to the budget are listed in the Board memo on pages 109 to 110. Ms. Miller noted that the total costs for the Mill Creek Diversion Project completed in FY24 are \$2,226,847, which is \$92,437 under budget.

She discussed Resolution No. 624, which outlines the allocation of expenses incurred by the District for Brownstein Hyatt. Mr. Cosgrove indicated minor revisions to the resolution.

It was moved by Director Longville and seconded by Director Corneille to approve the FY25 District Enterprise Budget as presented with incorporated changes from the Budget Workshop held on April 24, 2024, and adopt Resolution No. 624 with minor revisions noted to authorize a prior period adjustment for the Upper Santa Ana River Wash Habitat Conservation Plan to remove certain administrative expenses from those costs reimbursed to the District through issuance or other reimbursable costs and assign those costs to the District. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

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

6. INFORMATION ITEMS

A. ENVIRONMENTAL UPDATE

Dr. Mitrovich reviewed the written report included on package pages 123 to 125. He provided an update on the SBKR monitoring program, which was initiated on March 19. Staff have surveyed 129 plots out of 146 to date.

Dr. Mitrovich reviewed the California Gnatcatcher monitoring program, stating that the first round of surveys had been conducted. Staff will perform vegetation mapping tomorrow in the field. Mikael Romich completed surveys at the Mill Creek facilities in support of the draft Safe Harbor Agreement (SHA) with USFWS. Director Corneille asked for more information on the SHA. Dr. Mitrovich stated that the SHA allows the District to obtain federal permit coverage for endangered species at its Mill Creek facilities while supporting the expansion of the SBKR population on our lands. Mr. Cosgrove and Ms. Miller discussed the benefits of the SHA.

Dr. Mitrovich discussed the Slender-horned Spineflower (SHSF) Restoration Program. He indicated that the fifth month of monitoring at the out-planting sites will be conducted the week of May 20. Staff has implemented the second year of bulking. He noted that the USFWS toured the Wash Plan preserve on April 16 to discuss Wash Plan covered activities.

Dr. Mitrovich reviewed the Partnership Activities as shown on package page 125. He and Manuel Colunga, Field Supervisor, participated in the annual yucca harvest that takes place under the District's MOU with San Manuel on April 19.

B. ENGINEERING UPDATE

Ms. Torres provided the Engineering Update, noting its inclusion on package page 126. She reviewed the construction of the Mentone Shop improvements that began on March 26, indicating compaction, foundation, and site prep are complete. Once we have the schedule, the concrete pour will begin. Staff obtained three quotes for the septic system. The shop building is scheduled to arrive on June 14.

Ms. Torres reviewed the Enhanced Recharge project construction. She stated that Basins AA through EE, G, and H are operational. Staff began drying Basin 10 and D Dike to address both construction and maintenance needs. She said that construction is moving quickly and system testing occurred on April 22.

Mr. Lambie reviewed the PERC projects status included on package page 126. He has completed a full review of the projects. He said he met with Michael Fam of the San Bernardino County Flood Control District (FCD); FCD has indicated that they prefer to review projects individually. Mr. Lambie will review the hydraulic model framework with FCD and consultants. He discussed the flood analysis completed on the Plunge and Oak Creek projects. He reviewed the average annual storm event analysis and asked the consultant to try an alternative approach. Staff indicated that Oak Creek may be able to move forward expeditiously, pending hydrology analysis. Mr. Lambie reviewed the Mill, Bledsoe, and Cook Creek projects. The infiltration work has been done, and staff is awaiting the report. Cook has been eliminated, and Bledsoe is likely to be eliminated. Vice President Stewart requested that Cook Creek be removed from the report. Director Corneille said that the removal of Cook Creek should be voted on by the Policy Committee at their next meeting. Mr. Lambie will report next month on the groundwater model update.

C. GENERAL MANAGER'S REPORT AND MONTHLY RECHARGE REPORT

Ms. Miller indicated that the written General Manager's Report is included in the Board package on pages 129 through 131. She said there has been 46,599 AF of water recharged in the current water year, with 7,683 AF recharged in April. Ms. Quiroga will reach her twelve-year anniversary as a District employee on May 31. Ms. Miller attended the Biennial Symposium on Managed Aquifer Recharge from April 4-5. President McDonald, Mr. Cosgrove, and Ms. Miller attended the ACWA Spring Conference in Sacramento from May 7-9. Ms. Miller thanked Ms. Quiroga for her completion of the FY25 budget. Ms. Miller thanked Ms. Torres for her work on Item 12: Shop Facilities for Field Staff. In relation to Item 14: Wildland Trails, she noted that the City of Redlands may bring the MOU to their June City Council meeting. In regards to Item 15: Wash Plan, she noted that staff is eighty-eight percent complete with the SBKR surveys with 129 plots surveyed to date. Ms. Miller reviewed Item 20: Public Outreach and Legislative. District successes are noted on package page 131. The Monthly Recharge Report is included on package page 140. This item was received and filed.

D. FUTURE AGENDA ITEMS AND STAFF TASKS

Vice President Stewart requested that staff bring back information on how much water was not captured this year. He asked for a modeling review of the Borrow Pit and how it affects Basin 10. Ms. Miller noted that the District is working with partners to discuss calibrations to the model. Director Corneille asked if the target reserve level review had been performed. Ms. Miller indicated that this will be prepared and presented to the Finance & Administration Committee prior to consideration by the Board.

7. MONTHLY BOARD MEMBER MEETING REPORTS, AND/OR BOARD MEMBER COMMENTS

Vice President Stewart attended the Association of San Bernardino County Special Districts Dinner (ASBCSD) dinner on April 15, the Finance & Administration Committee on April 16, and the Operations Committee on April 17. He attended the Groundwater Public Hearing and Budget Workshop on April 24, the Ad Hoc GM Evaluation Committee on April 30, and the East Valley Water District's (EVWD) Turning of the Valve Celebration on May 3.

Director Corneille attended the Operations Committee on April 17, the Groundwater Public Hearing and Budget Workshop on April 24, and the Ad Hoc GM Evaluation Committee on April 30.

Director Longville attended the Finance & Administration Committee on April 16 and the SBVMWD Resources and Engineering Workshop on May 14.

President McDonald attended the SBVMWD Resources and Engineering Workshop on May 14, the ASBCSD Board meeting on May 13, and the ACWA Spring Conference from May 7 to 9. She attended the EVWD Turning of the Valve Celebration on May 3, the SBVMWD Policy & Administration Workshop on May 2, and the ASBCSD Board Meeting on April 8. She attended the SBVMWD Summit on April 25 and 26.

A. BOARD MEMBER TRAVEL REQUEST

It was moved by Director Corneille and seconded by Vice President Stewart to approve the Travel Request for President McDonald for the Toward Sustainable Groundwater in Agriculture 3rd Annual Conference in the amount of \$3,231. The motion carried 4-0, with all Board members present voting in the affirmative. Director Raley was absent from the vote.

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

8. UPCOMING MEETINGS

There were none discussed.

9. CLOSED SESSION

It was moved by Director Corneille and a seconded by Vice President Stewart to adjourn to Closed Session on Closed Session Items 3 and 4

only. The motion carried 4-0, with all Directors present voting in the affirmative. Director Raley was absent from the vote.

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

General Counsel announced that the meeting would adjourn to a closed session to discuss Items 3 and 4 on the posted agenda.

At 4:25 p.m., the meeting reconvened into an open session. Mr. Cosgrove noted that under Government Code Section 54957.1 (a) (1) (B), the Board authorized the District Counsel and the General Manager to enter into an agreement with CEMEX. CEMEX will have to approve the final agreement. He noted that CEMEX will continue pumping the sites that are experiencing high groundwater, and the District will have the actual and reasonable costs offset against the minimum annual guaranteed rent for three months. The parties will engage in mutual waivers and releases of conduct to date. The finalized agreement will be made available to anyone as a public record.

Mr. Cosgrove reported that the Board held the General Manager's performance review, and District Counsel will write a review. Any adjustment to the General Manager's compensation package will be considered in open session at the June Board meeting. There was no other reportable action during the closed session.

10. ADJOURN MEETING

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

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

At 4:27 p.m. the meeting adjourned to the Board meeting scheduled for 1:30 p.m. on June 12, 2024, in-person, teleconference, and Zoom meeting.

Betsy Miller
General Manager

San Bernardino Valley Water Conservation District Expenditure Report May 2024

Num	Date	Name	Account	Class	Original Amount
PC 05.01.24	05/01/2024	Paychex	1012 · Citizens Busine...		-151.52
			6042 · Payroll Processing	4-General Fund Ent.	151.52
TOTAL					151.52
PC 05.15.24	05/15/2024	Paychex	1012 · Citizens Busine...		-145.92
			6042 · Payroll Processing	4-General Fund Ent.	145.92
TOTAL					145.92
PC 05.29.24	05/29/2024	Paychex	1012 · Citizens Busine...		-142.18
			6042 · Payroll Processing	4-General Fund Ent.	142.18
TOTAL					142.18
24930	05/07/2024	Aaron Pederson	1012 · Citizens Busine...		-40.00
	04/27/2024		6018 · Janitorial Services	4-General Fund Ent.	40.00
TOTAL					40.00
24931	05/07/2024	ACWA/JPIA-Health	1012 · Citizens Busine...		-24,171.60
	05/02/2024		6110 · Vision Insurance	4-General Fund Ent.	39.99
			6110 · Vision Insurance	1-Groundwater Ent.	138.41
			6110 · Vision Insurance	2-Redlands Plaza/...	12.30
			6110 · Vision Insurance	3-Land Resources	30.76
			6110 · Vision Insurance	5-Wash Plan	21.53
			6110 · Vision Insurance	6-Active Recharge ...	64.59
			6130 · Dental Insurance	4-General Fund Ent.	133.92
			6130 · Dental Insurance	1-Groundwater Ent.	463.57
			6130 · Dental Insurance	2-Redlands Plaza/...	41.21
			6130 · Dental Insurance	3-Land Resources	103.02
			6130 · Dental Insurance	5-Wash Plan	72.11
			6130 · Dental Insurance	6-Active Recharge ...	216.33
			6150 · Medical Insurance	4-General Fund Ent.	2,968.40
			6150 · Medical Insurance	1-Groundwater Ent.	10,275.24
			6150 · Medical Insurance	2-Redlands Plaza/...	913.35
			6150 · Medical Insurance	3-Land Resources	2,283.39
			6150 · Medical Insurance	5-Wash Plan	1,598.37
			6150 · Medical Insurance	6-Active Recharge ...	4,795.11
TOTAL					24,171.60
24932	05/07/2024	American Express	1012 · Citizens Busine...		-939.85
	04/23/2024		6001 · General Adminis...	4-General Fund Ent.	19.74
			6001 · General Adminis...	1-Groundwater Ent.	19.74
			6002 · Website Adminis...	4-General Fund Ent.	365.00
			6036 · Printing	4-General Fund Ent.	53.02
			6036 · Printing	1-Groundwater Ent.	42.41
			6036 · Printing	3-Land Resources	10.60
			6530 · Lodging	4-General Fund Ent.	193.20
			6530 · Lodging	1-Groundwater Ent.	150.27
			6530 · Lodging	3-Land Resources	85.87
TOTAL					939.85

San Bernardino Valley Water Conservation District Expenditure Report May 2024

Num	Date	Name	Account	Class	Original Amount
24933	05/07/2024	American Power Security	1012 · Citizens Busine...		-732.00
	04/30/2024		6026 · Redlands Plaza ...	2-Redlands Plaza/...	732.00
TOTAL					732.00
24934	05/07/2024	CPS HR Consulting	1012 · Citizens Busine...		-1,298.75
	04/27/2024		5120 · Misc. Profession...	4-General Fund Ent.	1,298.75
TOTAL					1,298.75
24935	05/07/2024	Day Lite Maintenance, I...	1012 · Citizens Busine...		-836.30
	04/19/2024		6026 · Redlands Plaza ...	2-Redlands Plaza/...	662.30
	05/01/2024		6026 · Redlands Plaza ...	2-Redlands Plaza/...	174.00
TOTAL					836.30
24936	05/07/2024	Diamond Environment...	1012 · Citizens Busine...		-100.48
	04/22/2024		5460 · Water / Trash / ...	4-General Fund Ent.	45.22
			5460 · Water / Trash / ...	1-Groundwater Ent.	35.17
			5460 · Water / Trash / ...	3-Land Resources	10.05
			5460 · Water / Trash / ...	6-Active Recharge ...	10.04
TOTAL					100.48
24937	05/07/2024	DMV Renewal	1012 · Citizens Busine...		-507.00
	05/01/2024		5310 · Vehicle Mainten...	1-Groundwater Ent.	507.00
TOTAL					507.00
24938	05/07/2024	Edison - 6256 (Redland...	1012 · Citizens Busine...		-83.10
	04/30/2024		6026 · Redlands Plaza ...	2-Redlands Plaza/...	83.10
TOTAL					83.10
24939	05/07/2024	Edison - 9779	1012 · Citizens Busine...		-177.95
	04/30/2024		5420 · Electricity	4-General Fund Ent.	49.83
			5420 · Electricity	1-Groundwater Ent.	35.59
			5420 · Electricity	2-Redlands Plaza/...	74.74
			5420 · Electricity	6-Active Recharge ...	17.79
TOTAL					177.95
24940	05/07/2024	Eide Bailly LLP	1012 · Citizens Busine...		-1,209.16
	04/24/2024		5127 · Project Accounti...	4-General Fund Ent.	241.83
			5127 · Project Accounti...	6-Active Recharge ...	967.33
TOTAL					1,209.16

San Bernardino Valley Water Conservation District Expenditure Report May 2024

Num	Date	Name	Account	Class	Original Amount
24941	05/07/2024	Empire Disposal	1012 · Citizens Busine...		-216.33
	04/30/2024		5460 · Water / Trash / ...	4-General Fund Ent.	97.35
			5460 · Water / Trash / ...	1-Groundwater Ent.	75.72
			5460 · Water / Trash / ...	3-Land Resources	21.63
			5460 · Water / Trash / ...	6-Active Recharge ...	21.63
TOTAL					216.33
24942	05/07/2024	Frontier-4860	1012 · Citizens Busine...		-361.99
	04/28/2024		5440 · Telephone	4-General Fund Ent.	168.11
			5440 · Telephone	1-Groundwater Ent.	70.05
			5440 · Telephone	6-Active Recharge ...	42.03
			5470 · Internet Services	4-General Fund Ent.	36.81
			5470 · Internet Services	1-Groundwater Ent.	20.45
			5470 · Internet Services	2-Redlands Plaza/...	4.09
			5470 · Internet Services	3-Land Resources	12.27
			5470 · Internet Services	6-Active Recharge ...	8.18
TOTAL					361.99
24943	05/07/2024	Frontier-7275	1012 · Citizens Busine...		-169.01
	04/19/2024		5440 · Telephone	4-General Fund Ent.	36.02
			5440 · Telephone	1-Groundwater Ent.	15.01
			5440 · Telephone	6-Active Recharge ...	9.00
			5470 · Internet Services	4-General Fund Ent.	49.03
			5470 · Internet Services	1-Groundwater Ent.	27.25
			5470 · Internet Services	2-Redlands Plaza/...	5.45
			5470 · Internet Services	3-Land Resources	16.35
			5470 · Internet Services	6-Active Recharge ...	10.90
TOTAL					169.01
24944	05/07/2024	Grainger	1012 · Citizens Busine...		-353.73
	05/02/2024		5215 · Property Mainte...	1-Groundwater Ent.	282.98
			5215 · Property Mainte...	3-Land Resources	70.75
TOTAL					353.73
24945	05/07/2024	Home Depot Credit Ser...	1012 · Citizens Busine...		-198.14
	04/28/2024		5210 · Equipment Maint...	1-Groundwater Ent.	198.14
TOTAL					198.14
24946	05/07/2024	Katelyn Scholte	1012 · Citizens Busine...		-122.88
	04/25/2024		6510 · Mileage	1-Groundwater Ent.	122.88
TOTAL					122.88

San Bernardino Valley Water Conservation District
Expenditure Report
May 2024

06/04/24

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Class</u>	<u>Original Amount</u>
24947	05/07/2024	Krystle Hickman	1012 · Citizens Busine...		-1,900.00
	04/20/2024		6060 · Outreach	4-General Fund Ent.	525.00
			6060 · Outreach	1-Groundwater Ent.	350.00
			6060 · Outreach	3-Land Resources	525.00
			6060 · Outreach	5-Wash Plan	122.50
			6060 · Outreach	6-Active Recharge ...	227.50
	04/23/2024		6060 · Outreach	4-General Fund Ent.	45.00
			6060 · Outreach	1-Groundwater Ent.	30.00
			6060 · Outreach	3-Land Resources	45.00
			6060 · Outreach	5-Wash Plan	10.50
			6060 · Outreach	6-Active Recharge ...	19.50
TOTAL					1,900.00
24948	05/07/2024	Mikael Romich	1012 · Citizens Busine...		-4,727.98
	05/06/2024		5123 · Habitat Manage...	5-Wash Plan	2,014.65
			7151 · Mill Creek Permi...	1-Groundwater Ent.	2,713.33
TOTAL					4,727.98
24949	05/07/2024	Rebecca Martin	1012 · Citizens Busine...		-33.91
	04/30/2024		6525 · Meals	4-General Fund Ent.	15.26
			6525 · Meals	1-Groundwater Ent.	11.87
			6525 · Meals	3-Land Resources	6.78
TOTAL					33.91
24950	05/07/2024	Redlands Chamber of ...	1012 · Citizens Busine...		-195.00
	04/24/2024		6093 · Memberships	4-General Fund Ent.	195.00
TOTAL					195.00
24951	05/07/2024	Santa Ana Watershed ...	1012 · Citizens Busine...		-8,206.36
	04/29/2024		5215 · Property Mainte...	1-Groundwater Ent.	6,565.09
			5215 · Property Mainte...	3-Land Resources	1,641.27
TOTAL					8,206.36
24952	05/07/2024	Tetra Tech	1012 · Citizens Busine...		-31,158.40
	04/24/2024		7126 · PERC Engr/Prof...	6-Active Recharge ...	31,158.40
TOTAL					31,158.40
24953	05/07/2024	TLC Landscape Servic...	1012 · Citizens Busine...		-430.00
	04/24/2024		6026 · Redlands Plaza ...	2-Redlands Plaza/...	430.00
TOTAL					430.00
24954	05/07/2024	Unlimited Services	1012 · Citizens Busine...		-800.00
	05/01/2024		6018 · Janitorial Services	4-General Fund Ent.	800.00
TOTAL					800.00

San Bernardino Valley Water Conservation District Expenditure Report May 2024

Num	Date	Name	Account	Class	Original Amount
24955	05/07/2024	Visual Edge IT, Inc.	1012 · Citizens Busine...		-299.67
	04/22/2024		6033 · Office Equipmen...	4-General Fund Ent.	224.75
			6033 · Office Equipmen...	1-Groundwater Ent.	14.98
			6033 · Office Equipmen...	2-Redlands Plaza/...	44.96
			6033 · Office Equipmen...	3-Land Resources	14.98
TOTAL					299.67
24956	05/07/2024	Water Education Foun...	1012 · Citizens Busine...		-1,000.00
	05/02/2024		6060 · Outreach	4-General Fund Ent.	300.00
			6060 · Outreach	1-Groundwater Ent.	200.00
			6060 · Outreach	3-Land Resources	300.00
			6060 · Outreach	5-Wash Plan	70.00
			6060 · Outreach	6-Active Recharge ...	130.00
TOTAL					1,000.00
24957	05/07/2024	Water Systems Consult...	1012 · Citizens Busine...		-7,033.75
	03/31/2024		7126 · PERC Engr/Prof...	6-Active Recharge ...	6,041.25
			5120 · Misc. Profession...	1-Groundwater Ent.	992.50
TOTAL					7,033.75
24958	05/07/2024	WEX Bank-Shell	1012 · Citizens Busine...		-1,835.87
	05/06/2024		5320 · Fuel	1-Groundwater Ent.	1,835.87
TOTAL					1,835.87
24959	05/07/2024	WEX Bank-Valero	1012 · Citizens Busine...		-139.54
	04/23/2024		5320 · Fuel	1-Groundwater Ent.	139.54
TOTAL					139.54
24960	05/21/2024	Big Bear Municipal Wa...	1012 · Citizens Busine...		-6,129.21
	05/01/2024		5125 · Engineering Ser...	1-Groundwater Ent.	6,129.21
TOTAL					6,129.21
24961	05/21/2024	CS-NK Construction S...	1012 · Citizens Busine...		-61,720.92
	05/17/2024		7140 · Mentone Propert...	1-Groundwater Ent.	61,720.92
TOTAL					61,720.92

San Bernardino Valley Water Conservation District Expenditure Report May 2024

Num	Date	Name	Account	Class	Original Amount
24962	05/21/2024	David Cosgrove	1012 · Citizens Busine...		-2,608.40
	05/09/2024		6510 · Mileage	4-General Fund Ent.	231.01
			6510 · Mileage	1-Groundwater Ent.	144.39
			6510 · Mileage	3-Land Resources	57.75
			6510 · Mileage	6-Active Recharge ...	144.39
			6525 · Meals	4-General Fund Ent.	272.32
			6525 · Meals	1-Groundwater Ent.	211.80
			6525 · Meals	3-Land Resources	121.03
			6425 · Meals	4-General Fund Ent.	180.16
			6530 · Lodging	4-General Fund Ent.	517.30
			6530 · Lodging	1-Groundwater Ent.	402.34
			6530 · Lodging	3-Land Resources	229.91
			6520 · Travel, Other (re...	4-General Fund Ent.	43.20
			6520 · Travel, Other (re...	1-Groundwater Ent.	24.00
			6520 · Travel, Other (re...	3-Land Resources	28.80
TOTAL					2,608.40
24963	05/21/2024	Day Lite Maintenance, I...	1012 · Citizens Busine...		-34.89
	05/08/2024		6026 · Redlands Plaza ...	2-Redlands Plaza/...	34.89
TOTAL					34.89
24964	05/21/2024	DUDEK	1012 · Citizens Busine...		-3,061.64
	05/09/2024		5123 · Habitat Manage...	5-Wash Plan	3,061.64
TOTAL					3,061.64
24965	05/21/2024	E-PUR LLC	1012 · Citizens Busine...		-16,000.00
	05/20/2024		5120 · Misc. Profession...	6-Active Recharge ...	16,000.00
TOTAL					16,000.00
24966	05/21/2024	Edison - 6493	1012 · Citizens Busine...		-63.42
	05/09/2024		5420 · Electricity	4-General Fund Ent.	17.76
			5420 · Electricity	1-Groundwater Ent.	12.68
			5420 · Electricity	2-Redlands Plaza/...	26.64
			5420 · Electricity	6-Active Recharge ...	6.34
TOTAL					63.42
24967	05/21/2024	Edison - 8958	1012 · Citizens Busine...		-281.18
	05/07/2024		5420 · Electricity	4-General Fund Ent.	78.72
			5420 · Electricity	1-Groundwater Ent.	56.24
			5420 · Electricity	2-Redlands Plaza/...	118.10
			5420 · Electricity	6-Active Recharge ...	28.12
TOTAL					281.18

San Bernardino Valley Water Conservation District Expenditure Report May 2024

Num	Date	Name	Account	Class	Original Amount
24968	05/21/2024	ESRI, Inc.	1012 · Citizens Busine...		-162.06
	05/13/2024		6027 · Computer Softw...	4-General Fund Ent.	61.58
			6027 · Computer Softw...	1-Groundwater Ent.	16.21
			6027 · Computer Softw...	2-Redlands Plaza/...	24.31
			6027 · Computer Softw...	3-Land Resources	24.31
			6027 · Computer Softw...	5-Wash Plan	8.10
			6027 · Computer Softw...	6-Active Recharge ...	27.55
TOTAL					162.06
24969	05/21/2024	Horizon Water	1012 · Citizens Busine...		-12.50
	04/30/2024		5460 · Water / Trash / ...	4-General Fund Ent.	5.62
			5460 · Water / Trash / ...	1-Groundwater Ent.	4.38
			5460 · Water / Trash / ...	3-Land Resources	1.25
			5460 · Water / Trash / ...	6-Active Recharge ...	1.25
TOTAL					12.50
24970	05/21/2024	Pangahamo Materials, ...	1012 · Citizens Busine...		-1,000.00
	05/09/2024		5215 · Property Mainte...	1-Groundwater Ent.	800.00
			5215 · Property Mainte...	3-Land Resources	200.00
TOTAL					1,000.00
24971	05/21/2024	Quill Corporation	1012 · Citizens Busine...		-108.01
	04/29/2024		6030 · Office Supplies	4-General Fund Ent.	22.04
			6030 · Office Supplies	1-Groundwater Ent.	17.62
			6030 · Office Supplies	2-Redlands Plaza/...	8.81
			6030 · Office Supplies	3-Land Resources	8.81
			6030 · Office Supplies	5-Wash Plan	13.22
			6030 · Office Supplies	6-Active Recharge ...	17.62
	05/07/2024		6030 · Office Supplies	4-General Fund Ent.	4.97
			6030 · Office Supplies	1-Groundwater Ent.	3.98
			6030 · Office Supplies	2-Redlands Plaza/...	1.99
			6030 · Office Supplies	3-Land Resources	1.99
			6030 · Office Supplies	5-Wash Plan	2.98
			6030 · Office Supplies	6-Active Recharge ...	3.98
TOTAL					108.01
24972	05/21/2024	Redlands Ford-Ken Gr...	1012 · Citizens Busine...		-128.38
	05/16/2024		5310 · Vehicle Mainten...	1-Groundwater Ent.	128.38
TOTAL					128.38
24973	05/21/2024	Redlands Plumbing, Inc.	1012 · Citizens Busine...		-655.00
	05/13/2024		6016 · Redlands Plaza ...	2-Redlands Plaza/...	655.00
TOTAL					655.00

San Bernardino Valley Water Conservation District Expenditure Report May 2024

Num	Date	Name	Account	Class	Original Amount
24974	05/21/2024	The Gas Company	1012 · Citizens Busine...		-10.69
	05/13/2024		5450 · Natural Gas	4-General Fund Ent.	5.34
			5450 · Natural Gas	1-Groundwater Ent.	3.21
			5450 · Natural Gas	6-Active Recharge ...	2.14
TOTAL					10.69
24975	05/21/2024	The Readmond Compa...	1012 · Citizens Busine...		-600.00
	05/16/2024		6060 · Outreach	4-General Fund Ent.	180.00
			6060 · Outreach	1-Groundwater Ent.	120.00
			6060 · Outreach	3-Land Resources	180.00
			6060 · Outreach	5-Wash Plan	42.00
			6060 · Outreach	6-Active Recharge ...	78.00
TOTAL					600.00
24976	05/21/2024	Visual Edge IT, Inc.	1012 · Citizens Busine...		-399.00
	04/26/2024		6033 · Office Equipmen...	4-General Fund Ent.	299.25
			6033 · Office Equipmen...	1-Groundwater Ent.	19.95
			6033 · Office Equipmen...	2-Redlands Plaza/...	59.85
			6033 · Office Equipmen...	3-Land Resources	19.95
TOTAL					399.00
24977	05/21/2024	Xerox Financial Services	1012 · Citizens Busine...		-337.44
	05/02/2024		6033 · Office Equipmen...	4-General Fund Ent.	253.08
			6033 · Office Equipmen...	1-Groundwater Ent.	16.87
			6033 · Office Equipmen...	2-Redlands Plaza/...	50.62
			6033 · Office Equipmen...	3-Land Resources	16.87
TOTAL					337.44
24978	05/21/2024	Geoscience	1012 · Citizens Busine...		-58,718.50
	03/06/2024		5120 · Misc. Profession...	3-Land Resources	54,868.50
	04/12/2024		5120 · Misc. Profession...	3-Land Resources	3,526.00
	05/17/2024		5120 · Misc. Profession...	3-Land Resources	324.00
TOTAL					58,718.50
24979	05/21/2024	Citizens Business Bank	1012 · Citizens Busine...		-8,266.89
	05/13/2024		6001 · General Adminis...	4-General Fund Ent.	8,266.89
TOTAL					8,266.89
100356N	05/23/2024	PERS	1012 · Citizens Busine...		-10,564.84
			6170 · PERS Retirement	4-General Fund Ent.	1,373.43
			6170 · PERS Retirement	1-Groundwater Ent.	4,754.18
			6170 · PERS Retirement	2-Redlands Plaza/...	422.59
			6170 · PERS Retirement	3-Land Resources	1,056.48
			6170 · PERS Retirement	5-Wash Plan	739.54
			6170 · PERS Retirement	6-Active Recharge ...	2,218.62
TOTAL					10,564.84

San Bernardino Valley Water Conservation District Expenditure Report May 2024

Num	Date	Name	Account	Class	Original Amount
100357N	05/31/2024	PERS	1012 · Citizens Busine...		-10,562.15
			6170 · PERS Retirement	4-General Fund Ent.	1,373.08
			6170 · PERS Retirement	1-Groundwater Ent.	4,752.96
			6170 · PERS Retirement	2-Redlands Plaza/...	422.49
			6170 · PERS Retirement	3-Land Resources	1,056.22
			6170 · PERS Retirement	5-Wash Plan	739.35
			6170 · PERS Retirement	6-Active Recharge ...	2,218.05
TOTAL					10,562.15

San Bernardino Valley Water Conservation District
Director Fees Expenditure Payroll Report

May

Pay Date	Name	For Period	Director Fees	Taxes Withheld	Check Amt
5/1/2024	McDonald, M	Apr-24	\$ 1,080.00	\$ 106.73	\$ 973.27
5/1/2024	Longville, J	Jul '23-Mar '24	\$ 9,420.00	\$ 4,211.62	\$ 5,208.38
5/15/2024	Corneille, R	Apr-24	\$ 1,350.00	\$ 157.35	\$ 1,192.65
5/15/2024	McDonald, M	May-24	\$ 1,350.00	\$ 157.35	\$ 1,192.65



San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

Memorandum No. 2030

To: Board of Directors

From: Angie Quiroga, Senior Administrative Analyst
Betsy Miller, General Manager

Date: June 12, 2024

Subject: Unaudited Financial Reports for May 2024

RECOMMENDATION

Review and approve the unaudited financials for May 2024.

BACKGROUND

Staff presents a monthly unaudited financial report for the District at each Board meeting. The reports presented here cover the period ending May 31, 2024.

DISCUSSION

Interest income continues to make noticeable gains. GL 4032 Cemex-Royalty/Lease mining revenue will end over budget with three remaining payments due. GL 4036 Aggregate Maintenance has come in over budget as Upland Rock continues to make significant sales under their Material Processing License. GL 4050 Property Tax revenue has come in over budget with a few small payments expected by yearend. GL 5120 Misc Professional Services will come in under budget partially due to Water Systems Consulting's agreement which will continue into the next fiscal year. GL 5210 Equipment Maintenance is over budget due to significant field work being completed. GL 5320 Fuel is above budget due to increased fuel costs and fuel needs for the rental equipment. Accruals will be made next month as year-end approaches.

FISCAL IMPACT

Aside from staff time, there are no fiscal impacts from reporting the financial status of the District.

POTENTIAL MOTIONS

1. Move approval of the Unaudited Financials for May 2024 as presented.
2. Move to request this item be tabled and referred to the Finance & Administration Committee to reconsider specific issues discussed.

ATTACHMENTS

Graph Financials for May 2024
Profit & Loss to Date vs. Annual Budget

1630 W. Redlands Blvd, Suite A
Redlands, CA 92373
Phone: 909.793.2503
Fax: 909.793.0188
www.sbvwd.org Email: 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

SBVWCD - All Enterprises Budget and Actual

May 2024

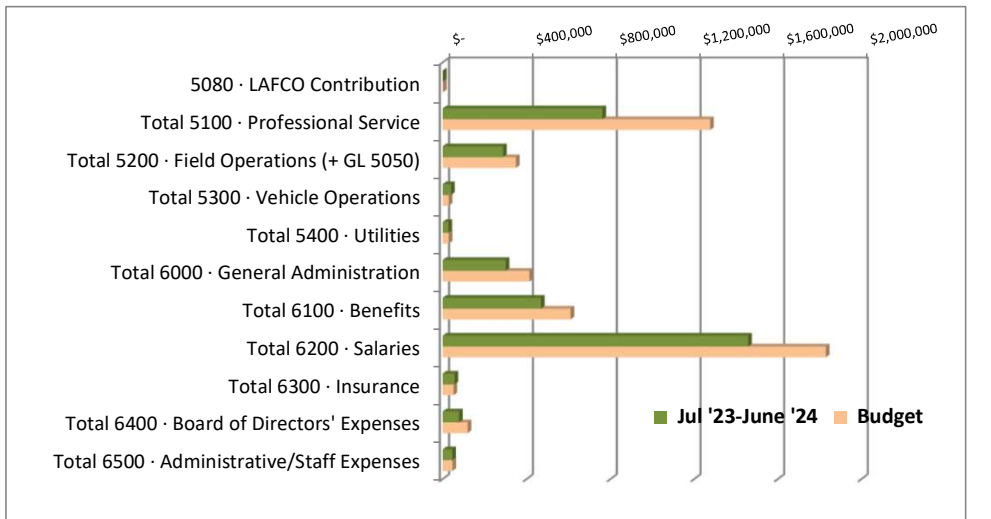
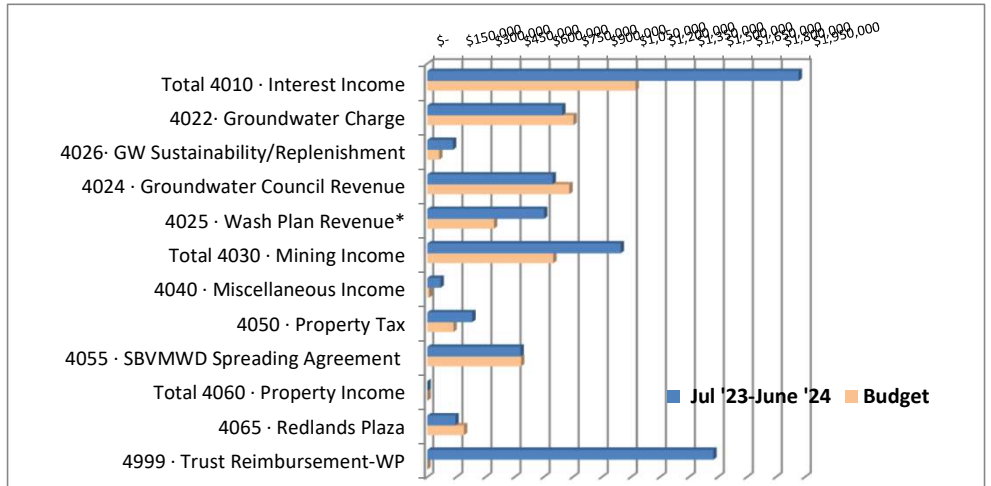
REVENUE	Jul '23-June '24	Budget
Total 4010 · Interest Income	\$ 1,917,239	\$ 1,073,453
4022· Groundwater Charge	\$ 694,999	\$ 753,061
4026· GW Sustainability/Replenishment	\$ 131,930	\$ 61,041
4024 · Groundwater Council Revenue	\$ 645,302	\$ 731,858
4025 · Wash Plan Revenue*	\$ 601,699	\$ 343,246
Total 4030 · Mining Income	\$ 996,575	\$ 649,000
4040 · Miscellaneous Income	\$ 68,170	\$ 9,167
4050 · Property Tax	\$ 231,324	\$ 134,689
4055 · SBVMWD Spreading Agreement	\$ 479,961	\$ 483,214
Total 4060 · Property Income	\$ 100	\$ 100
4065 · Redlands Plaza	\$ 144,367	\$ 188,980
4999 · Trust Reimbursement-WP	\$ 1,476,154	\$ -

Total Revenue \$ **7,387,821** \$ **4,427,810**

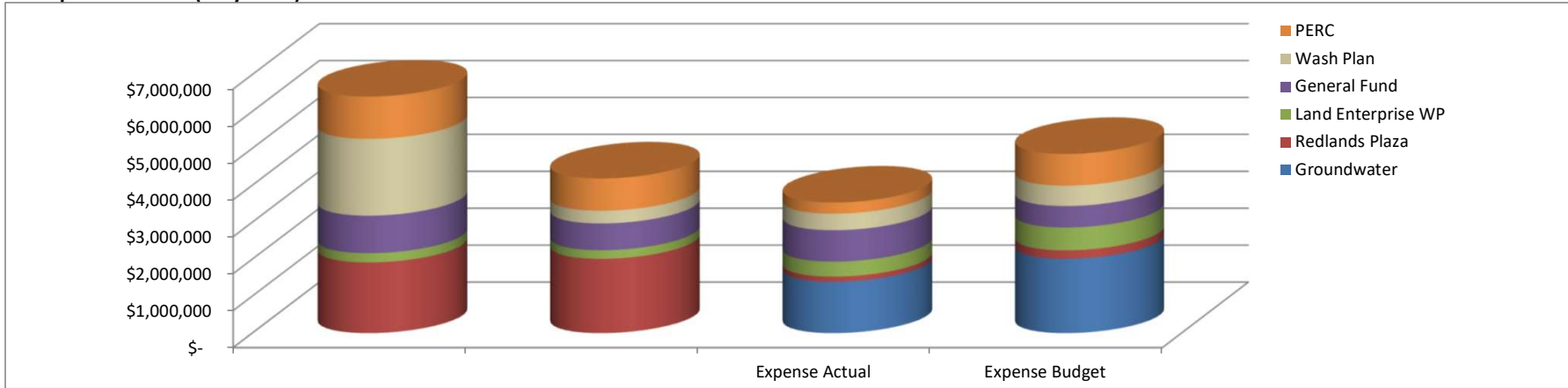
*District loans to the WP & State Permitting payments

EXPENSES Operating and Capital	Jul '23-June '24	Budget
5080 · LAFCO Contribution	\$ 2,048	\$ 2,057
Total 5100 · Professional Service	\$ 761,768	\$ 1,276,390
Total 5200 · Field Operations (+ GL 5050)	\$ 288,003	\$ 349,484
Total 5300 · Vehicle Operations	\$ 39,976	\$ 29,004
Total 5400 · Utilities	\$ 27,716	\$ 28,996
Total 6000 · General Administration	\$ 301,088	\$ 414,060
Total 6100 · Benefits	\$ 469,218	\$ 610,114
Total 6200 · Salaries	\$ 1,459,072	\$ 1,830,746
Total 6300 · Insurance	\$ 56,753	\$ 51,792
Total 6400 · Board of Directors' Expenses	\$ 78,738	\$ 119,237
Total 6500 · Administrative/Staff Expenses	\$ 45,786	\$ 46,702

Total Expense \$ **3,530,166** \$ **4,758,582**



Enterprises to Date (May 2024)



Enterprise	Actual	Budget	% of Budget
Groundwater Revenue	\$ 1,912,556	\$ 2,011,728	95%
Groundwater Expense	\$ 1,390,379	\$ 1,955,184	71%
Revenue -Expense	\$ 522,177	\$ 56,544	
Redlands Plaza Revenue	\$ 251,552	\$ 231,817	109%
Redlands Plaza Expense	\$ 139,832	\$ 229,816	61%
Revenue -Expense	\$ 111,720	\$ 2,001	
Land Enterprise Revenue	\$ 1,015,898	\$ 725,542	140%
Land Enterprise Expense	\$ 403,831	\$ 617,376	65%
Revenue -Expense	\$ 612,068	\$ 108,165	
General Fund Revenue *	\$ 1,218,176	\$ 715,346	170%
General Fund Expense	\$ 851,769	\$ 581,155	147%
Revenue -Expense	\$ 366,407	\$ 134,192	
Wash Plan Revenue	\$ 2,077,853	\$ 343,246	605%
Wash Plan Expense	\$ 447,026	\$ 551,041	81%
Revenue-Expense	1,630,827	(207,795)	
PERC Revenue	\$ 1,148,218	\$ 874,693	131%
PERC Expense	\$ 301,803	\$ 860,677	35%
Revenue-Expense	\$ 846,415	\$ 14,016	
Total All Revenue - Expense	\$ 4,089,614	\$ 107,122	

Cash Status	As of 7/1/2023	As of 05/31/24
LAIF	\$ -	\$ 1,026.17
Cal Trust	\$ 3,305,798.37	\$ -
Citizens Bank	\$ 814,215.58	\$ 732,638.54
UBS Financial-Gen	\$ 20,878,305.53	\$ 5,584,021.71
UBS Financial-PERC	\$ -	\$ 28,206,434.49
USBank-CAMP Gen	\$ 4,088,747.94	\$ 4,302,176.52
USBank-CAMP PERC	\$ 14,041,513.08	\$ 5,174,051.41
Total Cash	\$ 43,128,580.50	\$ 44,000,348.84
Less Prepaid Royalty	\$ (5,000,000.00)	\$ (5,000,000.00)
Less PERC Obligation	\$ (35,108,303.19)	\$ (35,960,480.02)
Cash Position	\$ 3,020,277.31	\$ 3,039,868.82

Increase (decrease) of \$19,591.51

Percent Increase 0.6%

* General Fund Revenue shown here does not include overhead

San Bernardino Valley Water Conservation District
 Profit & Loss To Date vs. Annual Budget

2:39 PM
 05/31/2024
 Accrual Basis

	Jul '23 - May 24	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
4010 · Interest Income				
4012 · LAIF	1,026.17	0.00	1,026.17	100.0%
4013 · Caltrust Investment Income	71,315.78	99,038.99	-27,723.21	72.01%
4015 · UBS Interest Income	1,396,667.43	510,000.00	886,667.43	273.86%
4016 · Interest Income CAMP	448,229.33	562,000.00	-113,770.67	79.76%
Total 4010 · Interest Income	1,917,238.71	1,171,038.99	746,199.72	163.72%
4017 · PERC Capital Income	0.00	171,900.00	-171,900.00	0.0%
4020 · Groundwater Charge				
4022 · Groundwater Charge	694,999.46	753,061.42	-58,061.96	92.29%
4024-2 · GW Council Passthrough	176,345.99	200,000.00	-23,654.01	88.17%
4024 · Groundwater Council Revenue	645,302.01	731,858.00	-86,555.99	88.17%
4026 · GW Sustainability/Replenishment	131,930.00	61,040.75	70,889.25	216.13%
Total 4020 · Groundwater Charge	1,648,577.46	1,745,960.17	-97,382.71	94.42%
4025 · Wash Plan Revenue	601,699.20	374,450.00	227,249.20	160.69%
4030 · Mining Income				
4031 · Plant Site - CEMEX	36,000.00	48,000.00	-12,000.00	75.0%
4032 · Cemex - Royalty / Lease	878,185.82	600,000.00	278,185.82	146.36%
4036 · Aggregate Maintenance	82,388.86	60,000.00	22,388.86	137.32%
Total 4030 · Mining Income	996,574.68	708,000.00	288,574.68	140.76%
4040 · Miscellaneous Income				
4041 · Reimbursed Expenses	65,830.69	0.00	65,830.69	100.0%
4040 · Miscellaneous Income - Other	2,339.50	10,000.00	-7,660.50	23.4%
Total 4040 · Miscellaneous Income	68,170.19	10,000.00	58,170.19	681.7%
4043 · Project Salary Reimbursement	19,223.60	15,000.00	4,223.60	128.16%
4050 · Property Tax	231,324.34	141,479.29	89,845.05	163.5%
4051 · Wash Plan Trails	0.00	66,000.00	-66,000.00	0.0%
4055 · SBVMWD Spreading Agreement Reim	479,961.36	483,213.76	-3,252.40	99.33%
4060 · Property Income				
4062 · Mentone Property	100.00	100.00	0.00	100.0%
Total 4060 · Property Income	100.00	100.00	0.00	100.0%
4065 · Redlands Plaza	144,367.19	206,160.35	-61,793.16	70.03%
4066 · Redlands Plaza CAM	40,862.54	46,621.41	-5,758.87	87.65%
4999 · Trust Reimbursement-Wash Plan	1,476,153.64	225,000.00	1,251,153.64	656.07%
Total Income	7,624,252.91	5,364,923.97	2,259,328.94	142.11%
Gross Profit	7,624,252.91	5,364,923.97	2,259,328.94	142.11%
Expense				
5040 · Regional Programs				
5080 · LAFCO Contribution	2,048.06	2,056.95	-8.89	99.57%
Total 5040 · Regional Programs	2,048.06	2,056.95	-8.89	99.57%
5050 · Basin Cleaning	201,081.38	570,603.75	-369,522.37	35.24%
5100 · Professional Service				
5120 · Misc. Professional Services	248,865.25	539,625.00	-290,759.75	46.12%
5122 · Wash Plan Professional Services	7,560.60	28,000.00	-20,439.40	27.0%
5123 · Habitat Management-WP	236,158.97	329,700.00	-93,541.03	71.63%
5125 · Engineering Services	6,129.21	35,000.00	-28,870.79	17.51%
5126 · GW Sustainability/Replenishment	0.00	61,040.75	-61,040.75	0.0%
5127 · Project Accounting Services	1,209.16	5,000.00	-3,790.84	24.18%
5128 · GC NonDistrict Facilities Maint	176,345.99	200,000.00	-23,654.01	88.17%
5130 · Aerial Photography & Surveying	0.00	2,425.50	-2,425.50	0.0%
5155 · WP Trails Professional Services	0.00	100,000.00	-100,000.00	0.0%
5160 · IT Support	33,486.19	45,625.00	-12,138.81	73.39%
5170 · Audit	29,800.00	28,500.00	1,300.00	104.56%
5180 · Legal	22,212.84	25,000.00	-2,787.16	88.85%
Total 5100 · Professional Service	761,768.21	1,399,916.25	-638,148.04	54.42%
5133 · Regional River HCP Contribution	0.00	30,000.00	-30,000.00	0.0%
5200 · Field Operations				
5210 · Equipment Maintenance	21,215.89	8,528.40	12,687.49	248.77%
5215 · Property Maintenance	17,420.65	40,000.00	-22,579.35	43.55%
5225 · Field Clean Up-Illegal dumping	48,285.14	60,000.00	-11,714.86	80.48%
Total 5200 · Field Operations	86,921.68	108,528.40	-21,606.72	80.09%

	Jul '23 - May 24	Budget	\$ Over Budget	% of Budget
5223 · Temp. Field Labor	4,473.48	10,000.00	-5,526.52	44.74%
5300 · Vehicle Operations				
5310 · Vehicle Maintenance	9,456.96	9,240.00	216.96	102.35%
5320 · Fuel	30,518.61	21,560.77	8,957.84	141.55%
Total 5300 · Vehicle Operations	39,975.57	30,800.77	9,174.80	129.79%
5400 · Utilities				
5410 · Alarm Service	726.00	1,200.00	-474.00	60.5%
5420 · Electricity	8,610.51	10,815.69	-2,205.18	79.61%
5430 · Mobile Phone	6,300.00	7,150.00	-850.00	88.11%
5440 · Telephone	3,627.07	3,000.00	627.07	120.9%
5450 · Natural Gas	822.60	2,730.00	-1,907.40	30.13%
5460 · Water / Trash / Sewer	3,823.90	3,904.10	-80.20	97.95%
5470 · Internet Services	3,806.06	2,832.52	973.54	134.37%
Total 5400 · Utilities	27,716.14	31,632.31	-3,916.17	87.62%
6000 · General Administration				
6001 · General Administration - Other	4,406.10	6,000.00	-1,593.90	73.44%
6002 · Website Administration	4,326.91	6,000.00	-1,673.09	72.12%
6004 · Meeting Expenses	2,108.31	2,200.00	-91.69	95.83%
6006 · Permits	2,767.00	15,000.00	-12,233.00	18.45%
6007 · Inter District Costs	1,500.00	10,000.00	-8,500.00	15.0%
6009 · Licenses	1,911.42	2,000.00	-88.58	95.57%
6010 · Surety Bond	3,025.00	1,900.00	1,125.00	159.21%
6012 · Office Maintenance	10,854.22	10,000.00	854.22	108.54%
6013 · Office Lease Payment	45,833.37	50,000.00	-4,166.63	91.67%
6015 · Mentone House Maintenance	0.00	4,000.00	-4,000.00	0.0%
6016 · Redlands Plaza Maintenance	12,855.70	47,000.00	-34,144.30	27.35%
6018 · Janitorial Services	9,075.00	10,500.00	-1,425.00	86.43%
6019 · Janitorial Supplies	803.32	375.00	428.32	214.22%
6020 · Vacancy Marketing-Redlands Plaz	0.00	5,000.00	-5,000.00	0.0%
6024 · Computer Equip Maint.	1,374.36	3,000.00	-1,625.64	45.81%
6026 · Redlands Plaza CAM expenses	37,514.03	42,861.03	-5,347.00	87.53%
6027 · Computer Software	10,480.84	23,250.00	-12,769.16	45.08%
6030 · Office Supplies	6,148.13	12,100.00	-5,951.87	50.81%
6033 · Office Equipment Rental	7,129.99	8,000.00	-870.01	89.13%
6036 · Printing	3,361.62	2,500.00	861.62	134.47%
6039 · Postage and Overnight Delivery	1,118.07	1,200.00	-81.93	93.17%
6042 · Payroll Processing	3,755.96	5,000.00	-1,244.04	75.12%
6045 · Bank Service Charges	1,050.82	10,000.00	-8,949.18	10.51%
6051 · Uniforms	3,205.00	3,115.76	89.24	102.86%
6060 · Outreach	97,877.12	127,000.00	-29,122.88	77.07%
6087 · Educational Reimbursement	1,095.00	5,000.00	-3,905.00	21.9%
6090 · Subscriptions/Publications	2,310.77	3,000.00	-689.23	77.03%
6091 · Public Notices	1,511.10	3,200.00	-1,688.90	47.22%
6093 · Memberships	23,688.95	25,364.28	-1,675.33	93.4%
Total 6000 · General Administration	301,088.11	444,566.07	-143,477.96	67.73%
6100 · Benefits				
6110 · Vision Insurance	3,454.36	3,776.71	-322.35	91.47%
6120 · Workers' Comp. Insurance	15,562.74	25,528.10	-9,965.36	60.96%
6130 · Dental Insurance	11,616.22	13,056.65	-1,440.43	88.97%
6150 · Medical Insurance				
6150.01 · Medical Employee Contribution	-31,531.87	-41,288.06	9,756.19	76.37%
6150 · Medical Insurance - Other	243,285.12	323,085.52	-79,800.40	75.3%
Total 6150 · Medical Insurance	211,753.25	281,797.46	-70,044.21	75.14%
6160 · Payroll Taxes-Employer	100,142.16	143,336.67	-43,194.51	69.87%
6170 · PERS Retirement				
6170.01 · PERS Employee Contributions	-59,377.70	-68,320.21	8,942.51	86.91%
6170.02 · 457 Plan Employee Contributions	-55,266.92			
6170 · PERS Retirement - Other	241,333.74	268,542.64	-27,208.90	89.87%
Total 6170 · PERS Retirement	126,689.12	200,222.43	-73,533.31	63.27%
Total 6100 · Benefits	469,217.85	667,718.02	-198,500.17	70.27%
6200 · Salaries				
6230 · Regular Salaries	1,459,071.52	1,997,177.80	-538,106.28	73.06%
Total 6200 · Salaries	1,459,071.52	1,997,177.80	-538,106.28	73.06%

	Jul '23 - May 24	Budget	\$ Over Budget	% of Budget
6300 · Insurance				
6310 · Property/ Auto Insurance	7,653.37	6,374.80	1,278.57	120.06%
6320 · General Liability Insurance	49,100.03	46,295.48	2,804.55	106.06%
Total 6300 · Insurance	56,753.40	52,670.28	4,083.12	107.75%
6400 · Board of Directors' Expenses				
6401 · Directors' Fees				
6401.5 · Payroll Taxes-Directors	2,222.05	0.00	2,222.05	100.0%
6401 · Directors' Fees - Other	62,772.18	105,600.00	-42,827.82	59.44%
Total 6401 · Directors' Fees	64,994.23	105,600.00	-40,605.77	61.55%
6410 · Mileage	926.89	4,840.00	-3,913.11	19.15%
6415 · Air Fare	3,448.80	3,906.25	-457.45	88.29%
6420 · Other Travel	389.18	605.00	-215.82	64.33%
6425 · Meals	3,328.12	4,235.00	-906.88	78.59%
6430 · Lodging	2,304.74	4,840.00	-2,535.26	47.62%
6435 · Conf/Seminar Registrations	3,346.17	6,050.00	-2,703.83	55.31%
Total 6400 · Board of Directors' Expenses	78,738.13	130,076.25	-51,338.12	60.53%
6500 · Administrative/Staff Expenses				
6510 · Mileage	3,411.17	2,750.00	661.17	124.04%
6515 · Air Fare	2,401.22	4,950.00	-2,548.78	48.51%
6520 · Travel, Other (rental car, taxi)	1,400.87	1,500.00	-99.13	93.39%
6525 · Meals	4,486.66	4,500.00	-13.34	99.7%
6530 · Lodging	12,979.74	6,500.00	6,479.74	199.69%
6535 · Conf/Seminar Registrations	21,106.00	29,875.00	-8,769.00	70.65%
Total 6500 · Administrative/Staff Expenses	45,785.66	50,075.00	-4,289.34	91.43%
9999 · Contribution to Capital Maint.	0.00	220,000.00	-220,000.00	0.0%
Total Expense	3,534,639.19	5,745,821.85	-2,211,182.66	61.52%
Net Ordinary Income	4,089,613.72	-380,897.88	4,470,511.60	-1,073.68%
Other Income/Expense				
Other Expense				
7000 · Construction				
7010 · Materials	0.00	12,000.00	-12,000.00	0.0%
Total 7000 · Construction	0.00	12,000.00	-12,000.00	0.0%
7100 · Land & Buildings				
7110 · Property Capital Repairs	30,647.00	387,999.50	-357,352.50	7.9%
7120 · Property-Land Purchase	0.00	70,000.00	-70,000.00	0.0%
7126 · PERC Engr/Prof Services	565,061.18	3,532,019.00	-2,966,957.82	16.0%
7130 · Mentone Property (House)-CapRep	29,000.00	7,000.00	22,000.00	414.29%
7140 · Mentone Property (Shop)-CapRep	239,827.91	891,649.15	-651,821.24	26.9%
7150 · Mill Creek Diversion	1,510,413.89	2,254,616.86	-744,202.97	66.99%
7151 · Mill Creek Permitting	248,248.27	285,207.27	-36,959.00	87.04%
7160 · Mendoza Property	0.00	137,000.00	-137,000.00	0.0%
Total 7100 · Land & Buildings	2,623,198.25	7,565,491.78	-4,942,293.53	34.67%
7200 · Equipment & Vehicles				
7210 · Computer Hardware-Capital Purch	13,691.60	10,000.00	3,691.60	136.92%
7220 · Computer Software	5,263.06	1,000.00	4,263.06	526.31%
7230 · Field Equipment / Vehicles	105,104.97	225,000.00	-119,895.03	46.71%
7240 · Office Equipment	56,553.47	54,400.00	2,153.47	103.96%
Total 7200 · Equipment & Vehicles	180,613.10	290,400.00	-109,786.90	62.2%
7400 · Professional Services Capital				
7438 · Engineering Services-Other	0.00	125,000.00	-125,000.00	0.0%
Total 7400 · Professional Services Capital	0.00	125,000.00	-125,000.00	0.0%
Total Other Expense	2,803,811.35	7,992,891.78	-5,189,080.43	35.08%
Net Other Income	-2,803,811.35	-7,992,891.78	5,189,080.43	35.08%
Net Income	1,285,802.37	-8,373,789.66	9,659,592.03	-15.36%



San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

Memorandum No. 2031

To: Board of Directors
From: David B. Cosgrove, General Counsel
Date: June 12, 2024
Subject: Settlement Agreement in EHL Litigation

RECOMMENDATION

Approve the revised Settlement Agreement negotiated through mediation in the suit *Endangered Habitats League, et al. v. U.S. Army Corps of Engineers, et al.*, Case No. 2:16-CV-09178-MWF-E, and authorize the Board President to sign it on behalf of the District.

BACKGROUND

This agenda item is carried over from May 15, 2024. Staff then hoped to have a final version of the EHL Settlement Agreement for Board approval, but certain revisions remained by the time the agenda closed. The Board continued the item to June, and in the intervening time period, all parties have provided a tentative agreement to a draft, and it is now being circulated among the various parties' legislative bodies and decision makers for final approval. The revisions to the Settlement Agreement from the draft presented on May 15 are reflected in the redline Attachment A and reflect refinement to provisions that deal with resolving potential future conflicts between Settlement Agreement obligations and documents governing the maintenance and operation of Seven Oaks Dam. General Counsel will be available to discuss any questions arising from these final, somewhat technical revisions.

As stated before, this Settlement Agreement culminates litigation brought by two environmental advocate NGOs, the Endangered Habitats League (“EHL”), and the Center for Biological Diversity (“CBD”), against the Army Corps of Engineers (“ACOE”), relating to environmental requirements attending the original approvals of the Seven Oaks Dam, in and around 2002. In essence, the plaintiff agencies alleged that, due to inactivity and changed conditions, the ACOE was required to initiate reconsultation with the United States Fish and Wildlife Service (“USFWS”) on mitigation requirements attending the construction of the dam.

The lawsuit was filed in December 2016. Our District, and the San Bernardino Valley Municipal Water District, successfully sought to intervene in the litigation in August 2017. Our agency was motivated to monitor dam mitigation requirements to assure compatibility with the Upper Santa Ana River Wash HCP (Wash Plan), which is located within the Upper Santa Ana River Wash, and to explore potential mechanisms and opportunities for regional coordination between the administration of the Seven Oaks

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Division 5:
Melody McDonald

GENERAL MANAGER

Daniel B. Cozad

Dam Woolly Star Preservation Area (WSPA) and the Upper Santa Ana River HCP preserve areas. The Local Sponsors of the dam (San Bernardino County Flood Control District, Riverside County Water Conservation and Flood Control District, and Orange County Flood Control District) intervened in January 2019, primarily to defend their ability to operate the dam in compliance with federal requirements, and to participate in negotiations on mitigation requirements that would fall to them, under the applicable agreements between the Local Sponsors and ACOE.

The formal litigation process advanced no further than the pleading stage when all parties opted to forego extensive motion and discovery practice (and its attendant costs) in favor of mediation. John Bickerman was selected as the mediator in January of 2022, and the parties have been working steadily since then toward a resolution. That resolution is now at hand.

DISCUSSION

There are three primary aspects to the Settlement Agreement. First, the Local Sponsors have agreed to provide up to four hundred (400) acres of mitigation land, either within or outside of the WSPA Area, and to focus the projects to accomplish this habitat restoration on inundation-focused solutions. These will be provided at a pace of 1-20 acres every five (5) years and will be funded by the Local Sponsors. In part because the state-of-the-art and best practices on local habitat management and restoration are still nascent and evolving, the Settlement Agreement contains liberal credit provisions and reserved discretion to the Local Sponsors on the locations, costs, and feasibility of the projects selected to meet the overall habitat requirement.

Second, the Settlement Agreement creates a Technical Committee as a discussion forum for the projects and pace of the habitat preservation requirement. Its members are our District, Valley District, CBD, EHL, and the three Local Sponsors. This Technical Committee is advisory only; the actual decisions on WSPA management and compliance with the Biological Opinion for the Seven Oaks Dam rest with the Steering Committee already in place, consisting of the Local Sponsors, ACOE, and the USFWS. Five of seven Technical Committee members must approve a recommendation to the Steering Committee. The Technical Committee has no real authority on WSPA decision-making, but it does meet twice yearly and is intended to serve as a forum for preserve management professionals to meet and confer over time to lend transparency to the WSPA habitat management process. It will also offer opportunities for joint projects, symbiotic management practices, potential pursuit of shared grant funding, and shared lessons learned over the overlapping WSPA and HCP preserve management activities.

Third, the Local Sponsors have committed to dam releases below 500 cfs, unless otherwise required for flood control safety purposes, when needed for habitat enhancements, or to comply with the Water Control Manual or other Seven Oaks Dam management regulations and documents. This memorializes the prior informal practice of the Local Sponsors in dam operation, under which the District and its constituents benefitted from the Local Sponsors' voluntary cooperation with releases that were consistent with downstream water supply capacities and objectives, when otherwise consistent with dam operating criteria. This aspect of the Settlement Agreement will allow the "default" condition of dam management to keep flows below levels where releases can be captured for groundwater recharge by downstream facilities, including those of our District, while still providing the operators flexibility to release higher flows when required for flood safety, or regulatory requirements.

Notably absent from the settlement Agreement is any obligation by ACOE. ACOE took the position from the outset that it would not be bound by any local agreements regarding what it considered to be local interests downstream of the dam. The plaintiffs do not necessarily agree that ACOE's "hands off" approach is consistent with its potential litigation liability, or past actions. In the final analysis, however, plaintiffs agreed the ability to forge a local agreement among local operators, who will be most involved in the dam operations and their impact on local water and habitat issues, made the active participation of ACOE unnecessary to what is intended to be a long-term, and ultimately local, solution to these potentially conflicting interests.

POLICY CONSIDERATIONS

The Settlement Agreement represents an alternative to litigation that, even if successful, would have only resulted in a restart of negotiations between ACOE and USFWS on potentially expanded obligations for WSPA and dam mitigation, but which ultimately, many of the local stakeholders would not control. Hypothetically, that process might have led to stricter or more expansive habitat protections than the Settlement Agreement offers, but at unknown expenditures of time, litigation costs, and uncertain impacts to the water supply benefits included in the Settlement Agreement.

FISCAL IMPACT

Apart from staff costs for participation on the Technical Committee, which will be reflected in ongoing budgets attending the Wash Plan implementation, none. The mediation process was handled internally by District Counsel representing the District throughout the mediation process, so outside counsel costs were avoided.

POTENTIAL MOTIONS

1. Approve the Settlement Agreement as presented authorizing District Counsel to execute on behalf of the District.
2. Provide other directions to staff.

ATTACHMENTS

Settlement Agreement

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SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is entered into among the Endangered Habitats League (“EHL”), the Center for Biological Diversity (“CBD”), the San Bernardino Valley Municipal Water District (“Valley District”), the San Bernardino Valley Water Conservation District (“SBVWCD”), the San Bernardino County Flood Control District, the Riverside County Flood and Water Conservation District, the Orange County Flood Control District (collectively “Local Sponsors” or “Flood Control Districts”), and the U.S. Army Corps of Engineers (“Corps”), hereafter referred to collectively as “the Parties” to resolve the matter, *Endangered Habitats League, et al. v. U.S. Army Corps of Engineers, et al.*, Case No. 2:16-CV-09178-MWF-E, filed in the U.S. District Court for the Central District of California.

RECITALS

WHEREAS, on December 12, 2016, EHL and CBD (collectively “Plaintiffs”) filed a complaint against the Corps alleging that the Corps is required to reinitiate formal consultation with the U.S. Fish and Wildlife Services (“USFWS”) under Section 7 of the federal Endangered Species Act (“ESA”), 16 U.S.C. § 1536(a)(2), due to alleged impacts to the San Bernardino Kangaroo Rat and Santa Ana Sucker and their respective critical habitats resulting from the Santa Ana River Mainstem, including Santiago Creek, California Flood Control Project (the “Federal Project”) and the operation of Seven Oaks Dam (the “Dam”);

WHEREAS, on April 12, 2017, the Corps filed an answer to the Plaintiffs’ complaint;

WHEREAS, on August 29, 2017, the Valley District and SBVWCD intervened as plaintiffs in the Litigation (defined below) (collectively the “Water Districts” or “Plaintiff-Intervenors”), and on September 29, 2017, individually filed complaints-in-intervention against the Corps bringing additional claims;

WHEREAS, on January 23, 2019, the Flood Control Districts intervened as defendants in the Litigation, and filed answers to the Plaintiffs’ complaint and the Plaintiff-Intervenors’ complaints-in-intervention on October 15, 2021;

WHEREAS, on October 15, 2021, the Corps filed answers to the Plaintiff-Intervenors’ complaints-in-intervention;

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WHEREAS, the Corps and the Flood Control Districts dispute Plaintiffs' and Plaintiff-Intervenors' allegations and claims, including among other things, that the Corps is required to reinitiate formal consultation under Section 7 of the ESA;

WHEREAS, a number of Management Documents (defined below) currently exist or are currently being developed, that address Species and/or Habitat (defined below), and a coordinated framework amongst the Parties may further the objectives of those Management Documents;

WHEREAS, this Agreement is intended to establish a framework for a coordinated effort amongst the Parties, consistent with and limited by each Party's existing authorizations and missions, by which flood risk management ("FRM"), restoration and adaptive management efforts for Species and/or Habitat, and, to the extent not inconsistent therewith, incidental Groundwater Recharge (defined below) benefits can be realized within the flexibilities of the discharge schedule in accordance with the Water Control Plan ("WCP") contained within the Water Control Manual ("WCM") (defined below) in recognition that the authorized purpose of the Dam is FRM; and

WHEREAS, the Plaintiff-Intervenors have expressed a desire for Dam Releases to not exceed 500 cubic feet per second ("cfs") during conditions when greater releases are not required for FRM and the other conditions set forth in Section V are satisfied, to provide for incidental Groundwater Recharge benefits.

NOW, THEREFORE, in consideration of the mutual understandings contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

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I. DEFINITIONS

As used in this Agreement, as well as in any other documents contemplated by this Agreement, and any amendments thereto, the following provisions shall have the meanings set

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forth below. These defined terms used in the singular shall be deemed to include the plural, and vice versa.

1. “**Dam Releases**” means water that is released through Seven Oaks Dam pursuant to the WCP contained within the WCM.
2. “**Effective Date**” shall mean the last date that all Parties have signed this Agreement.
3. “**Groundwater Recharge**” means the intentional diversion of surface water into constructed and maintained recharge basins for percolation into underlying alluvial basins incidental to Dam Releases, for the purpose of enhancing basin groundwater supplies for later beneficial use.
4. “**Inundation-Focused Project**” shall mean any Project for which inundation is the primary component, in accordance with Section III below.
5. “**Litigation**” refers to the matter, *Endangered Habitats League, et al. v. U.S. Army Corps of Engineers, et al.*, Case No. 2:16-CV-09178-MWF-E, filed in the U.S. District Court for the Central District of California.
6. “**Management Area**” shall mean the 200-Acre Management Area within the WSPA described in the Biological Opinion (“BO”) (defined below) and as approximately depicted in **Exhibit A** (attached).
7. “**Management Documents**” shall mean the documents, manuals, agreements, biological opinions, contracts, or permits relating to the Santa Ana River Watershed in and around the Dam. Each Management Document specifies the parties subject to that Management Document, and not all Parties to the Litigation are parties to every Management Document. Each Management Document incorporates a decision-making structure specific to that Management Document. Nothing in this Agreement shall change the content of, limit, or otherwise affect the existing Management Documents or the parties subject to those Management

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Documents, nor shall this Agreement affect or otherwise limit the discretion or decision-making authority provided therein. Such Management Documents shall include without limitation:

- a. **“1993 Agreement”**: The agreement among the Flood Control Districts dated May 11, 1993, and as amended on June 17, 1997, which provides for certain maintenance, operation, rehabilitation, and development of Seven Oaks Dam.
- b. **“1993 Management Plan for the Santa Ana River Woolly Star”**: The management plan governing the land within the Woolly Star Preserve Area (“WSPA”) acquired by the Local Sponsors for the purpose of managing the Santa Ana River woolly star and its habitat.
- c. **“BO”**: The USFWS biological opinion for operations of Seven Oaks Dam dated December 19, 2002, which includes an Incidental Take Statement (“ITS”) that addresses the “amount or extent of take,” “effect of take,” “reasonable and prudent measure,” and “terms and conditions.” Regarding the “amount or extent of take,” the ITS states, among other things, “[o]ver the 100-year life of the project, 200 acres of SBKR habitat will be manipulated (10-20 acres every 5-10 years)”.
- d. **“Final Multi-Species Habitat Management Plan” or “Final MSHMP”**: The BO identifies the development of a Multi-Species Habitat Management Plan (“MSHMP”) for the WSPA as a conservation measure. A draft MSHMP was completed in 2012 and is currently undergoing environmental review as required under the National Environmental Policy Act (“NEPA”). The MSHMP will be finalized once the NEPA process is complete, and the Corps has received concurrence from the USFWS and California Department of Fish and Wildlife prior to its

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implementation (“Final MSHMP”)¹.

- e. **“Habitat Conservation Plans” or “HCPs”** means the following habitat conservation plans, as defined under Section 10 of the ESA, 16 U.S.C. § 1539: The Upper Santa Ana River HCP, the Upper Santa Ana River Wash Plan HCP, and the Western Riverside Multi-Species HCP. The HCPs include local agency activities and are not a part of Dam management or Dam operations.
- f. **“Local Cooperation Agreement”**: The agreement among the Department of the Army and the Flood Control Districts dated December 14, 1989, as amended, and supplemented thereafter, for construction of the Santa Ana River Mainstem, including Santiago Creek, California Flood Control Project (the “Federal Project”), which includes matters concerning the Dam.
- g. **“Water Control Manual” or “WCM”**: The manual containing the approved water control plan and regulatory guidance for the Dam. Currently, the water control manual being implemented is titled “Water Control Manual, Seven Oaks Dam & Reservoir, San Bernardino County, California” prepared by the Corps dated September 2003.
- 8. **“Non-Federal Parties”** means all Parties other than the Corps.
- 9. **“Project”** shall mean any project for Species and/or Habitat (defined below) management, conservation, or restoration, that is recommended by the Technical Committee, in accordance with Sections III and IV below.
- 10. **“Species and/or Habitat”** shall mean the federally endangered San Bernardino

¹ As set forth herein, any Projects or other actions identified in this Agreement that fall under the jurisdiction of the MSHMP once it is finalized are conditioned on, and subject to, the terms of the Final MSHMP.

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kangaroo rat (*Dipodomys merriami parvus*) (“SBKR”) and its designated critical habitat, slender-horned spineflower (*Dodecahema leptoceras*), Santa Ana River woolly star (*Eriastrum densifolium ssp. sanctorum*), and the federally threatened Santa Ana sucker (*Catostomus santaanae*) and its designated critical habitat.

11. “**Technical Committee**” shall mean the seven Non-Federal Parties who will meet for Technical Meetings, as set forth in Section IV below, with each Non-Federal Party constituting one (1) committee member.
12. “**Technical Meetings**” shall mean the meetings of the Technical Committee as set forth in Section IV below.
13. “**WSPA**” means the Woolly Star Preserve Area.

II. FLOOD RISK MANAGEMENT PRIORITY

The Parties agree and understand that the intent and foundational basis of this Agreement is that any Dam Release used for a Project or for incidental Groundwater Recharge, including any associated access and land use, shall be expressly subordinate to FRM needs, including but not limited to the Federal Project and the requirements of the WCM. It shall be in the sole discretion of the Local Sponsors to determine whether any activity will conflict with FRM, consistent with Corps’ requirements for the Federal Project, the WCM, including any future amendments thereto, the Operation, Maintenance, Repair, Replacement, and Rehabilitation Manuals (“OMRR&R Manuals”), and any other applicable federal or state requirements.

III. HABITAT RESTORATION

Subject to the terms and conditions of this Agreement and the Technical Meeting process outlined in Section IV below, the Local Sponsors agree to implement Projects as follows:

- A. **Habitat Restoration Acreage.** The Species and/or Habitat restoration objective is the implementation of Projects that reach a cumulative sum of 400 acres, and that, to the extent practicable, and subject to the terms of the BO, those 400 acres be comprised of Inundation-Focused Projects. Projects are to be implemented at a

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rate of approximately twenty acres every five years, except that any Project in the Management Area shall adhere to the rate specified in Section III.B.1 below. However, pursuant to the Technical Meeting process outlined in Section IV below, the Local Sponsors may, at any point in time, elect to exceed this rate outside the Management Area, in or outside the WSPA. In no event shall the Local Sponsors be required under this Agreement to implement a Project or Projects that, together, exceed 400 cumulative acres. Credit toward the 400-acre cumulative Project objective shall accrue upon commencement of each Project activity.

- B. Projects Within the WSPA.** The Local Sponsors agree to implement Projects within the WSPA as follows:
1. **Within the Management Area.** Projects within the Management Area shall be Inundation-Focused Projects to the extent practicable, subject to the existing take limit and terms and conditions of the BO, and the Final MSHMP. In accordance with the BO, the objective of such Inundation-Focused Projects is for each Project to occur at the rate of ten to twenty acres every five to ten years.²
 2. **Outside the Management Area.** Projects within the WSPA but outside the Management Area shall be Inundation-Focused Projects to the extent practicable and shall be consistent with the BO and the Final MSHMP.
 3. **Project Selection, Development, and Implementation.** Projects within the WSPA shall be subject to the Technical Meeting process outlined in Section IV below and the following terms and conditions:
 - a. The Project does not conflict with any applicable requirements or restrictions in the Final MSHMP; FRM; the WCM, including any

² See BO at p. 30, *Incidental Take Statement, Amount or Extent of Take.*

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future amendments thereto; the BO; any future applicable biological opinions; or any other state and federal requirements; and

- b. The Project is informed by directed and experimental studies performed by or at the direction of the Local Sponsors, as applicable and pursuant to the Final MSHMP; and
- c. After discussion with the Non-Federal Parties through the Technical Meeting process, in the discretion of the Local Sponsors, each Project is determined to be technically and economically feasible and practicable; and
- d. Experimental hydrological treatment of WSPA land shall qualify as an Inundation-Focused Project; and,
- e. The Local Sponsors can obtain all necessary approvals, permits, and underlying landowner consent for the Project, without undue financial burden on the Local Sponsors and without conflicting with any other state or federal requirements of the Local Sponsors.

C. **Projects Outside the WSPA.** There is no obligation for any Party to pursue Projects outside of the WSPA. However, a willing Non-Federal Party may propose a Project outside of the WSPA, through the Technical Meeting process outlined in Section IV below, subject to the following:

- 1. No Project shall occur on any land owned by the United States and (a) managed by the Corps; ~~and~~ or (b) managed by the Forest Service and subject to a Memorandum of Understanding with the Corps.
- 2. Written consent of the landowner(s) is required and subject to any conditions set forth by the landowner(s); and

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3. Project area, design, cost, and success criteria shall be subject to a separate agreement between the willing Non-Federal Party and landowner(s); and
4. No Project shall be located on any land owned, possessed, or controlled by any Non-Federal Party without the written consent of the respective Non-Federal Party, which consent, and any conditions, such as, but not limited to, offsetting mitigation credits, shall, notwithstanding any limitations set forth in Section VIII.F below, be in the sole and unreviewable discretion of the Non-Federal Party; and
5. With respect to any lands owned outside the WSPA possessed by any Non-Federal Party of this Agreement that may be used for a Project, the respective owner or possessor of the land retains final authority over the land, and any uses thereon, including any water diversions, and subject to any relevant Management Document, or any applicable federal requirements. If any non-WSPA land owned or possessed by a Non-Federal Party is agreed to be used for any Project, pursuant to this Agreement, the Non-Federal Party owner or possessor of the land agrees to provide reasonable access to the land subject to the following conditions:
 - a. Such use shall be non-exclusive by the Non-Federal Party using the land for the respective Project pursuant to this Agreement; and
 - b. Such use shall not interfere with the Non-Federal Party owner or possessors use of such land; and
 - c. Such use may require a subsequent written agreement and be subject to the Non-Federal Party owner's or possessor's governing body's approval.

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6. No Project may be a constraint on the operation of the Dam for FRM or for other operational purposes as specified in the WCM.
- D. **SBKR Delisting.** In the event the SBKR is removed from the list of threatened and endangered species pursuant to ESA section 4(c)(2)(B)(i) [16 U.S.C. § 1533(c)(2)(B)(i)], the Local Sponsors and the Corps shall be relieved of any further obligations with respect to Projects and the 400-acre habitat restoration objective specified in Section III.A above.
- E. **Funding.** The Local Sponsors shall be financially responsible for any Project within the WSPA. Funding for Projects outside of the WSPA shall be subject to a separate good faith agreement among the willing Non-Federal Parties.
- F. **Cooperation on Grant Funding for Projects Outside the WSPA.** To further benefit the Species and/or Habitat within the Santa Ana River Wash, the Local Sponsors will reasonably cooperate, subject to necessary Local Sponsor Board approvals and staff commitments, with the Plaintiffs in Plaintiffs' efforts to seek public or private grants for Species and/or Habitat restoration projects outside of the WSPA ("Grant-Funded Project(s)"), provided that no Local Sponsor shall have any obligation to seek or apply for grants, or be listed as an applicant or project sponsor for any Grant-Funded Project, or otherwise participate in, fund or implement any such Grant-Funded Project, although it may choose to do so in its sole discretion. No lands may be used for Grant-Funded Projects without the written consent of the entity that owns or controls such lands, and on conditions specified by that entity, all of which shall be in the sole, unreviewable discretion of the owner/controlling entity. Such additional benefits may be pursued at any point in time, simultaneously with the fulfillment of obligations as to other Projects. Unless otherwise agreed to by the Local Sponsors, which consent shall be in the sole and unreviewable discretion of the Local Sponsors, no Local

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Sponsor or the Corps shall have any responsibility for permitting or other approvals for any Grant-Funded Project.

- G. Corps' Involvement.** As funding allows, and as determined by the Corps, the Corps' involvement in any Project will be limited to participating in the meetings of any committees established under the Final MSHMP, where the Final MSHMP requires the Corps' participation, reviewing annual reports and work plans related to Projects occurring on the WSPA, and ensuring consistency with the Final MSHMP's goals and objectives and BO requirements.

IV. TECHNICAL MEETINGS

- A. Technical Committee.** It is the intent of the Non-Federal Parties that the Technical Committee be a collaborative multi-disciplinary working group of the Non-Federal Parties, with engineering, hydrologic and biological expertise, and that each Technical Committee member be represented by staff within their organization, retained consultants, or designees within the Non-Federal Parties, who possess knowledge in one or more of these areas.
- B. Semi-Annual Technical Meetings.** The Local Sponsors shall schedule Technical Meetings no less than two times per calendar year, at times and locations determined by the Local Sponsors. The Technical Meetings may be combined and coordinated with other meetings that occur under the Management Documents if the Local Sponsors determine it is practicable to do so. Video and telephonic options will be provided for all Technical Meetings, though Technical Committee members are encouraged to attend in-person. The Corps is not a member of the Technical Committee and is not required to participate in the Technical Meetings but may choose to do so at its discretion. The Technical Committee may invite representatives of other entities who are not Parties to this Agreement to a specific

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Technical Meeting if at least five (5) Technical Committee members agree to the invitation.

C. Technical Meeting Scope. At the request of the Technical Committee members, and subject to the terms of this Agreement, the Technical Meetings may include, but are not limited to, discussion of the following topics:

1. Projects, including but not limited to, modifications, alternatives, mitigation measures, objectives and metrics, implementation, monitoring, evaluation, adaptive management, and any potential effects on Species and/or Habitat;
2. Project permitting;
3. Dam Releases for reasons other than FRM, including any potential effects on Species and/or Habitat;
4. Activities occurring under the HCPs and the Final MSHMP, and other potential activities to address Species and/or Habitat, including coordination of these plans; and
5. Incidental Groundwater Recharge.

D. Good Faith Coordination. The Non-Federal Parties agree to coordinate and participate in the Technical Meetings in good faith, with each party given the opportunity to review, comment, and exchange ideas. The Non-Federal Parties agree to discuss and evaluate proposed Projects as early as possible, and nothing herein shall prevent or discourage communication among the members outside of the scheduled Technical Meetings.

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E. Recommendations.

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1. If at least five (5) Technical Committee members agree, recommendations will be provided to the appropriate decision-making authority pursuant to paragraphs 2 and 3 below.
2. Any recommendations that relate in whole or in part to the WSPA shall be presented by the Local Sponsors for consideration to any steering or like committee currently informally functioning pursuant to the 2012 draft MSHMP or that may be established under the Final MSHMP.
3. Any recommendations that do not relate in whole or in part to the WSPA, shall be presented to the appropriate decision-making authority pursuant to the procedures prescribed in the relevant Management Document. To the extent the recommendation relates to more than one Management Document, the relevant member(s) with authority shall coordinate presenting the recommendation to the relevant decision-making authorities in good faith.

F. Project Evaluation.

1. The Technical Committee will recommend and monitor Project-specific goals, metrics, and objectives on a Project-by-Project basis. Each Project shall include specific goals, metrics, and objectives, as appropriate, based on the best available scientific information and current standards of practice for the Species and/or Habitat, using one or more of the following: percent open ground; sand cover; native shrub cover; forb cover and composition; non-native grass and plant cover; abundance, occupancy and persistence of SBKR and Santa Ana River woolly star; and the presence of slender-horned spineflower.
2. If after implementation, and after the expiration of the reasonable time frame so determined, the Project does not meet Project-specific goals,

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metrics, and objectives, the Technical Committee, pursuant to Sections IV.C and IV.E above, shall seek to make reasonable and feasible recommendations for adaptive management, an alternative Project, or modifications to the Project to better achieve those Project-specific goals, metrics, and objectives. The level of Project effectiveness shall be determined by quantitative and qualitative data presented in Project monitoring plans.

V. SEVEN OAKS DAM RELEASES

- A.** This Agreement shall in no way affect, limit, or interfere with FRM, as determined by the Local Sponsors, nor shall it interfere with compliance with the WCM and OMRR&R Manual(s), including any future amendments thereto.
- B.** The Plaintiffs and Plaintiff-Intervenors agree and acknowledge that the Local Sponsors shall have sole discretion to determine: (i) whether any Dam Release complies with the WCM, including any future amendments thereto, and any other applicable state or federal requirements; (ii) whether any Dam Release, at any point in time, is necessary for FRM; and (iii) what Dam operations are required to implement a Dam Release.
- C.** The Local Sponsors agree to limit Dam Releases to no greater than 500 cfs to provide for incidental Groundwater Recharge benefits, within the flexibilities of the discharge schedule in the WCM, including any future amendments thereto, provided
1. Such Dam Releases will not compromise (a) the Dam's operational safety, (b) the need for Dam maintenance, or (c) FRM, as determined in the Local Sponsors' sole discretion; and
 2. The committee functioning as the multi-agency steering committee contemplated in the WCM (currently 7-05h), including any future

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amendments thereto, does not determine and define an environmental regulation to be followed that requires a greater Dam Release, including environmental regulation to comply with the BO and any future applicable biological opinions or to support a Project.

D.—Orange County Flood Control District agrees to add the Plaintiff-Intervenors to the Dam’s notification directory and to provide notice to the Plaintiff-Intervenors for any non-emergency Dam Releases (as determined in the sole discretion of the Orange County Flood Control District) that exceed 500 cfs.

E.D. ~~If the WCM, and/or the OMRR&R Manual(s) are amended in the future, and those amendments result in a conflict with the terms and conditions of Section V. of this Agreement, then the amended WCM and/or OMRR&R Manual(s) shall govern and control. In the event a conflict with any amended WCM and/or the OMRR&R Manuals prevents the Local Sponsors from fulfilling their Settlement Agreement obligations, the Non-Federal Parties will meet and confer through the Technical Meeting process and seek to propose alternative measures to achieve the objectives of this Agreement. If no alternative measures are achieved through the Technical Meeting process, the Non-Federal Parties may seek to modify this Agreement pursuant to Section VII below.~~

VI. CONFLICTS WITH THE OBLIGATIONS NOT CONDITIONED ON FINAL MSHMP, FUTURE AMENDMENTS TO THE WCM AND/OR OMRR&R MANUAL(S)

A. Nothing herein shall be conditioned on completion or approval of the Final MSHMP. In the event a conflict with the Final MSHMP prevents the Local Sponsors from performing under this Agreement, the Parties agree to meet and confer through the Technical Meetings set forth in Section IV or as otherwise agreed, to identify possible alternative measures to achieve the objectives of this Agreement. This Agreement may be modified in accordance with Section XI.C to

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reflect mutually agreed upon alternative measures. The failure to agree on alternative measures shall not limit any Party's ability to exercise the dispute resolution provisions in Section VIII of this Agreement.

B. If the WCM and/or the OMRR&R Manual(s) are amended in the future, and those amendments result in a conflict with any provision of this Agreement, the amended WCM and/or OMRR&R Manual(s) shall govern and control. In the event a conflict with any amended WCM and/or OMRR&R Manual(s) prevents the Local Sponsors from performing under this Agreement, the Parties agree to meet and confer through the Technical Meetings set forth in Section IV or as otherwise agreed, to identify possible alternative measures to achieve the objectives of this Agreement. This Agreement may be modified in accordance with Section XI.C to reflect mutually agreed upon alternative measures. The failure to agree on alternative measures shall not limit any Party's ability to exercise the dispute resolution provisions in Section VIII of this Agreement.

~~**F.** Nothing herein shall be conditioned on completion or approval of the Final MSHMP. In the event a conflict with the Final MSHMP prevents the Local Sponsors from fulfilling their Settlement Agreement obligations, the Non-Federal Parties will meet and confer through the Technical Meeting process and seek to propose alternative measures to achieve the objectives of this Agreement. If no alternative measures are achieved through the Technical Meeting process, the Non-Federal Parties may seek to modify this Agreement pursuant to Section VII below.~~

VI.VII. DISMISSAL OF ACTION

This Agreement is entered into for a full and final settlement of the Litigation. Within five (5) business days of the Effective Date of this Agreement, the Plaintiffs or Plaintiff-Intervenors shall file the joint stipulation of dismissal with prejudice, attached hereto as **Exhibit B**. If the Court does not enter a dismissal with prejudice, this Agreement shall be null and void, and shall have no legal force and effect.

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VII.VIII. DISPUTES AND ENFORCEMENT

In the event any Party to this Agreement believes another Party is in violation of this Agreement's terms and conditions, the following dispute resolution procedures shall apply:

- A. Meet and Confer.** If any Party to this Agreement disputes another Party's compliance with this Agreement, the disputing Party must notify all Parties in writing via email within ten (10) business days of knowledge of the alleged non-compliance and agree to meet and confer within fourteen (14) calendar days to attempt to resolve the dispute in good faith. Nothing herein prevents the Parties from agreeing to a longer meet and confer period if agreed to by the disputing Party.
- B. Mediation.** If the Parties are unable to resolve the dispute through the meet-and-confer process above, the Parties may submit the dispute to mediation by a mutually acceptable mediator. The Parties shall enter into a separate and mutually acceptable mediation agreement with all Parties equally sharing the costs of mediation costs. To the extent a dispute centers on disagreements regarding technical subject matter, the Parties agree to cooperate in good faith to select a mediator that has proficiency in the technical subject matter in dispute. The mediator's decision shall be non-binding and intended to provide an opportunity for the Parties to evaluate each other's allegations and arrive at a mutually agreeable resolution of the dispute.
- C. Legal/Administrative Action.** If the Parties are unable to reach an agreement through the mediation process above, the disputing Party may elect to seek enforcement of this Agreement against a Non-Federal Party through any administrative or legal remedy available. No Non-Federal Party may initiate any administrative or legal action against the Corps to enforce this Agreement. The Corps' election not to be a party to any action brought in state court to enforce

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this Agreement against a Non-Federal Party shall not, in and of itself, be the basis for dismissal pursuant to California Code of Civil Procedure Section 389.

Nothing herein prevents the Non-Federal Parties from mutually agreeing to arbitration. Nothing herein excuses, replaces, or waives any requirements for initiating claims against any Non-Federal Party, including exhaustion of remedies, that exist independent of this Agreement.

- D.** Where the terms of this Agreement provide for determinations to be made in the discretion of the Local Sponsors, such determinations shall be made in a timely manner. The Parties agree that nothing in this Agreement permits the Parties to make determinations that are unlawfully withheld or unreasonably delayed, arbitrary, or capricious.
- E.** Under no circumstances shall this Agreement be enforceable against the Corps through a court, administrative, or any other legal proceeding, including an action for contempt of court. Under no circumstances shall any provision of this Agreement be the basis for any action for specific performance, mandamus, or any other remedy seeking to compel the Corps to take any of the actions referenced in this Agreement. Nothing in this Agreement, however, shall limit the rights of the Non-Federal Parties to seek judicial review that would otherwise be available notwithstanding this Agreement to compel Corps action that is unlawfully withheld or unreasonably delayed, or to hold unlawful and set aside Corps action, findings, and conclusions pursuant to the Administrative Procedure Act, 5 U.S.C. § 706, provided no Non-Federal Party may rely on this Agreement as a substantive basis for such challenge.

VIII,IX. COSTS AND ATTORNEYS' FEES

Each Party to this Agreement shall bear its own costs and attorneys' fees incurred in prosecuting, defending, and settling this Litigation.

**CONFIDENTIAL MEDIATION DOCUMENT
SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408**

IX.X. WAIVER AND RELEASE

- A.** In consideration for the provisions of this Agreement, the Plaintiffs and Plaintiff-Intervenors, including but not limited to their present directors, Council members, Boards, supervisors, elected officials, assigns, representatives, and agents (“Releasers”), hereby waive, release and forever discharge the Defendant and Defendant-Intervenors, including San Bernardino County, the County of Orange, and Riverside County, and their respective Boards, supervisors, council members, directors, elected officials, employees, officers, directors, shareholders, attorneys, agents, representatives, predecessors, successors, and assigns (the “Released Parties”) from and against any and all claims, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, notices, demands, obligations, damages, costs, interest, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys’ fees) of any nature whatsoever, fixed or contingent, (collectively “Claims”) that: (i) were made, or that could have been made, in the Litigation; (ii) were made in Plaintiffs’ December 11, 2019 ESA 60-day notice; (iii) arise from or are associated with performance of this Agreement, including but not limited to any Claims that arise from or are associated with the Species and/or Habitat, with the exception of disputes pursuant to Section VIII above; and/or (iv) Claims that challenge the legal sufficiency of the Final MSHMP, including, but not limited to, compliance with NEPA (hereinafter, the “Released Claims”).
- B.** The Parties acknowledge and agree that successful implementation of this Agreement, without the immediate threat of additional litigation, is in the interest of each Party. Accordingly, notwithstanding the above waiver and Released Claims, and in addition thereto, Releasers covenant not to sue any Released Party for any Claims under the Endangered Species Act (16 U.S.C. § 1538 *et seq.*) or

**CONFIDENTIAL MEDIATION DOCUMENT
SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408**

the California Endangered Species Act (Cal. Fish & Game Code § 2050 *et seq.*) related to, or arising from, the Dam, and/or operation or maintenance of the Dam, that may arise within 36 months of the Effective Date of this Agreement. Nor will Releasors actively solicit other persons or entities to file such Claims, nor will they materially support, either by funding or providing legal assistance in, such Claims filed by another person or entity, provided, however, that nothing in this provision shall prohibit Releasors from communicating with governmental entities with jurisdiction or regulatory authority regarding resources affected by this Agreement.

X.XI. MISCELLANEOUS PROVISIONS

- A.** The Parties acknowledge and agree that the terms and provisions of this Agreement have been fairly and reasonably negotiated and mutually agreed upon by the Parties with their respective counsel, after arms-length negotiations before mediator John Bickerman. No Party shall be deemed to have drafted this Agreement, and this Agreement shall be construed neutrally and shall not be applied or interpreted more strictly against one Party than another Party.
- B.** This Agreement contains the entire Agreement between the Parties and constitutes the complete, final, and exclusive embodiment of the Agreement with respect to the Litigation. This Agreement supersedes and replaces any and all prior negotiations, confirmatory letters, and proposed or final agreements, whether written or oral, unless otherwise expressly provided herein.

~~In the event a conflict with any amended WCM and/or an amended OMR&R Manual(s) prevents the Local Sponsors from performing under Section V.C of this Agreement, the Parties will meet and confer to identify possible alternative measures to achieve the objectives of Section V.C above. This Agreement may be modified in accordance with Section XI.E to reflect such alternative measures if all Parties agree modification is~~

**CONFIDENTIAL MEDIATION DOCUMENT
SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408**

necessary.

- ~~**B.** In the event a conflict with the Final MSHMP prevents the Local Sponsors from performing their obligations under this Agreement, the Parties will meet and confer and seek to propose alternative measures to achieve the objectives of Section III above. This Agreement may be modified in accordance with Section XI.E. to reflect such alternative measures if all Parties agree modification is necessary.~~
- C.** No amendment, change, or modification of this Agreement shall be valid unless it is in writing and signed by all Parties to this Agreement.
- D.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.
- E.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same Agreement. A facsimile, electronic, or other duplicate signature shall have the same effect as a manually executed original. This Agreement shall be deemed fully executed as of the Effective Date.
- F.** This Agreement and its terms, covenants, conditions, provisions, obligations, undertakings, rights, and benefits shall be binding upon and inure to the benefit of the Parties and their respective successors-in-interest and assigns.
- G.** Nothing herein shall be construed to limit or modify any discretion accorded to the Corps or the Non-Federal Parties by statute, regulation, or general principles of administrative law.

**CONFIDENTIAL MEDIATION DOCUMENT
SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408**

H. No provisions of this Agreement shall be interpreted as or constitute a commitment or requirement that the Corps obligate funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable law or regulation.

C.I. Neither this Agreement, nor any action taken by the Parties pursuant to it, shall in any way be construed as an admission by the Parties of any liability, wrongdoing, or violation of law, regulation, contract, or policy, in any claim, action, or lawsuit against the Parties. This Agreement has no precedential value and shall not be cited in any other litigation or administrative proceeding except as necessary to enforce the terms of the Agreement against a Non-Federal Party, as outlined in Section VIII above.

I.J. No provisions of this Agreement shall be construed to limit or deny the power of a federal official to promulgate or amend regulations.

J.K. The Parties acknowledge and agree that nothing herein shall modify or confer any new property interest to the Local Sponsors or any Party, whether relating to Dam operations or otherwise, nor shall any provision of this Agreement serve as the basis of any claim or defense that would operate as any type of waiver or estoppel on any Plaintiff-Intervenors from the full lawful use of their respective property interests.

K.L. The signatories below represent and warrant that they are authorized to sign on behalf of and bind the respective Party for which they represent.

IN WITNESS WHEREOF, the Parties, by and through their authorized counsel, intending to be legally bound, have executed this Agreement on the dates shown below.

//

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**CONFIDENTIAL MEDIATION DOCUMENT
SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408**

DATED: May 28, 2024~~May 15,~~ DOWNEY BRAND LLP
~~2024May 15, 2024May 14,~~
~~2024May 13, 2024May 9,~~
~~2024May 9, 2024May 9, 2024May~~
~~8, 2024~~

By: _____

MEREDITH E. NIKKEL
Attorneys for SAN BERNARDINO
VALLEY MUNICIPAL WATER
DISTRICT

DATED: May 28, 2024~~May 15,~~ UNITED STATES DEPARTMENT OF
~~2024May 15, 2024May 14,~~ JUSTICE
~~2024May 13, 2024May 9,~~
~~2024May 9, 2024May 9, 2024May~~
~~8, 2024~~

By: _____

LESLEY LAWRENCE-HAMMER
Attorneys for Defendant

//
//

**CONFIDENTIAL MEDIATION DOCUMENT
SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408**

DATED: May 28, 2024~~May 15,~~ CENTER FOR BIOLOGICAL DIVERSITY
~~2024May 15, 2024May 14,~~
~~2024May 13, 2024May 9,~~
~~2024May 9, 2024May 9, 2024May~~
~~8, 2024~~

By: _____
JOHN BUSE
Attorneys for Plaintiff ENDANGERED
HABITATS LEAGUE AND CENTER
FOR BIOLOGICAL DIVERSITY

DATED: May 28, 2024~~May 15,~~ DAVID B. COSGROVE, GENERAL
~~2024May 15, 2024May 14,~~ COUNSEL
~~2024May 13, 2024May 9,~~
~~2024May 9, 2024May 9, 2024May~~
~~8, 2024~~

By: _____
DAVID B. COSGROVE
Attorney for Plaintiff-Intervenor SAN
BERNARDINO VALLEY WATER
CONSERVATION DISTRICT

DATED: May 28, 2024~~May 15,~~ LEON J. PAGE, COUNTY COUNSEL
~~2024May 15, 2024May 14,~~
~~2024May 13, 2024May 9,~~
~~2024May 9, 2024May 9, 2024May~~
~~8, 2024~~

**CONFIDENTIAL MEDIATION DOCUMENT
SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408**

By: _____

LEON J. PAGE
Attorneys for Defendant-Intervenor
ORANGE COUNTY FLOOD CONTROL
DISTRICT

DATED: May 28, 2024~~May 15,~~ MEYERS NAVE
~~2024May 15, 2024May 14,~~
~~2024May 13, 2024May 9,~~
~~2024May 9, 2024May 9, 2024May~~
~~8, 2024~~

By: _____

SHAYE DIVELEY
Attorneys for Defendants-Intervenors
SAN BERNARDINO FLOOD
CONTROL DISTRICT and RIVERSIDE
COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT

DRAFT



**San Bernardino Valley
Water Conservation District**

Helping Nature Store Our Water

Memorandum No. 2032

To: Board of Directors
From: Betsy Miller, General Manager
David B. Cosgrove, General Counsel
Date: June 12, 2024
Subject: Approve a Temporary Agreement to Harmonize Mining and Groundwater Recharge Operations

RECOMMENDATION

Authorize the General Manager to enter into a Temporary Agreement to Harmonize Mining and Groundwater Recharge Operations with Cemex Construction Materials Pacific, LLC (“Cemex”), for a three-month period effective May 1, 2024, to allow Cemex to offset its costs of groundwater pumping against guaranteed annual rental amounts, as part of a joint effort by Cemex and the District to assure recharge of all available groundwater supplies, while preserving mining operations from high groundwater conditions.

BACKGROUND AND DISCUSSION

The District has been fortunate during the last two water years to have native and imported water supplies available to fulfill its mission of groundwater recharge. However, increasing groundwater levels may impact sand and gravel mining operations, as provisioned in the District’s mining leases that require the curtailment or halt of mining activities when such operations come within defined distances to current groundwater elevations.

In April, one of the District’s mining lessees, Cemex, advised that rising water levels were threatening encroachment on its only remaining permitted mining areas and its production facilities at Orange Street. Cemex advised that it had instituted water pumping and removal activities, and coordinated with the District pursuant to protocols in the “Mineral Lease for Extraction of Sand and Gravel Materials” dated January 1, 2021, and recorded on February 11, 2021, as Document No. 2021-0067742 in the official records of San Bernardino County (“Lease”).

Specifically, the Lease provides that in the event of a potential conflict between groundwater recharge activities and mining operations, the District would use its best efforts to redirect surface water recharge to areas that would not exacerbate high groundwater conditions in areas of active mining operations, until:

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Redlands, CA 92373
Phone: 909.793.2503
Fax: 909.793.0188
www.sbvwcd.org Email: info@sbvwcd.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

1) high groundwater conditions have abated to a point where active mining operations can resume; 2) it appears District's remedial efforts are not affecting groundwater levels in the area of active mining; or 3) the District has no reasonable alternative to spreading water in and around the areas of active mining operations. The District temporarily limited recharge in D Dike, its facility most proximate to Cemex's active operations and processing site. When that failed to lower water levels appreciably, the District resumed use of D Dike. The District has since ceased use of both D Dike and Basin 10 in the course of planned maintenance activities. To date, however, these measures failed to reduce groundwater levels in a manner that eliminated all conflict between recharge and mining activities.

The parties met and conferred, and agreed to propose a compromise between the District's reserved water spreading rights under the Lease, and Cemex's added expenses incurred in pumping the site to preserve its operations. The result is the Agreement now presented for Board approval.

Under the Agreement, Cemex may, for a three-month period beginning May 1, 2024, credit its documented pumping costs against guaranteed annual rental amounts otherwise due under the Lease. (The Board may recall that staff previously negotiated indexed guaranteed annual rental amounts to keep predictable mining revenue inflow even in times of limited production by the miners.) The current guaranteed annual royalty rate is \$56,652.75 monthly.

This Agreement represents a compromise, which both Cemex and District staff believe is preferable to potential forensic debate about potential alternative groundwater recharge strategies, potential alternative mining operations or permitting scenarios, and most especially, potential work curtailments or layoffs that might occur if mining operations must be suspended. Without any admission of liability, it permits the status quo of parallel operations, while the parties mutually monitor groundwater levels, and attempt to accelerate permitting of potential alternative mining or processing sites. In essence, it represents a continuing investment in our partnership with Cemex, while we work to take advantage of favorable water supply conditions that may not reoccur for many years.

FISCAL IMPACT

Approval of the recommended action could result in loss of up to \$149,085 of mining revenues over the three-month life of the Agreement.

POTENTIAL MOTIONS

1. Authorize the General Manager to enter and execute on behalf of the District the Temporary Agreement to Harmonize Mining and Groundwater Recharge Operations, in the form attached hereto as Attachment A.
2. Refer the issue to the Finance and Administration Committee for further consideration.
3. Provide other directions to staff.

ATTACHMENTS

Temporary Agreement to Harmonize Mining and Groundwater Recharge Operations

Draft 5/28/24

TEMPORARY AGREEMENT TO HARMONIZE
MINING AND GROUNDWATER RECHARGE OPERATIONS

THIS Temporary Agreement to Harmonize Mining and Groundwater Recharge Operations (“Temporary Agreement”) is entered into effective the 1st day of April 2024, by and between the SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT (“District”) and CEMEX CONSTRUCTION MATERIALS PACIFIC, LLC (“Cemex”). This Temporary Agreement is entered into in consideration of all the following:

RECITALS:

- A. District and Cemex entered that certain “Mineral Lease for Extraction of Sand and Gravel Materials” dated January 1, 2021, and recorded on February 11, 2021, as Document No. 2021-0067742 in the official records of San Bernardino County (“Lease”).
- B. Under the Lease, District leased to Cemex certain property for sand and gravel mining operations (the “Premises”). The Lease contained a reserved right to the District to utilize portions of the Premises for water spreading activities, subject to certain defined procedures and priorities appearing in Lease paragraph 6.5.
- C. Specifically, paragraph 6.5(b)(iii) of the Lease provides that in the event of any unplanned cessation of mining activity by Lessee because of groundwater levels, the District would use its best efforts to redirect surface water recharge to areas that would not exacerbate high groundwater conditions in areas of active mining operations, until: 1) high groundwater conditions have abated to a point where active mining operations can resume; 2) it appears District’s remedial efforts are not affecting groundwater levels in the area of active mining; or 3) the District has no reasonable alternative to spreading water in and around the areas of active mining operations.
- D. In March 2024, Cemex notified District that water levels in the areas surrounding its sole remaining permitted area of active mining (the “Affected Area”) were rising, and threatening mining and processing operations and facilities located thereon. District thereupon ceased directing groundwater recharge to D Dike, the facility District owns and operates nearest to the Affected Area. While monitoring wells near to D Dike showed a drop in water levels after such cessation, water levels at and in the immediate vicinity of the Affected Area continued to rise, and District is now once again utilizing D Dike for recharge. In an effort to respond to these circumstances in the Affected Area and continue its mining operations, Cemex installed and is now operating pumps to move water from

the Affected Area to locations downstream, and that pumping has continued through the date of this Temporary Agreement.

- E. Cemex and the District have met and conferred regarding their mutual objectives and responsibilities under the Lease regarding this situation. District desires to capitalize on groundwater recharge in those years, such as this one, where prevailing drought conditions have eased, and atmospheric river precipitation events allow for surface water supplies and availability of imported water to recharge the depleted Bunker Hill Basin, consistent with District's primary mission. Cemex desires to continue its mining production, to capitalize on favorable market conditions, and with the unavailability of alternative sites on the Premises for mining operations, due to permitting constraints. Both parties wish to cooperate to allow each party to achieve its objectives, insofar as may be consistent with the Lease and the parties' respective rights thereunder.

- F. The Lease provides a mechanism for the parties to meet and confer on situations such as this one, and likewise provides that if the District's exercise of its reserved groundwater spreading rights directly interrupts Cemex's mining activities such that Cemex has no remaining active permitted mining areas at the Premises, Cemex's Guaranteed Annual Royalty obligations would be suspended, as further set forth in paragraph 6.5(b)(iv) of the Lease. The parties have determined it is in their mutual best present interests to focus on temporary solutions to keeping groundwater recharge operations and active mining operations occurring in parallel, rather than engage in forensic investigations or potentially speculative discussions on sources of water levels, reasonableness of the respective parties' exercise of their rights, or financial impacts from either party's temporary inability to achieve their objectives under the Lease, and towards that end, have entered into this Temporary Agreement.

NOW, THEREFORE, IN CONSIDERATION OF ALL OF THE FOREGOING, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

- 1. Recitals. The forgoing recitals are true and correct. Capitalized terms used herein without definition shall have the meanings assigned to them in the Lease.

- 2. Term. This Temporary Agreement shall be effective as of April 1, 2024, and shall continue in full force and effect until June 30, 2024, unless extended in writing by both parties.

- 3. Cemex to Continue Pumping. Cemex will continue the water pumping remedial measures it has undertaken at the Affected Area, and will do so until the earlier to occur of any of the following events: (a) the threatened interruptions to Cemex's mining or processing

activities at the Affected Area due to the water levels cease, (b) Cemex determines, in its reasonable discretion, that pumping at existing levels and capacities, or at such reasonably expanded or accelerated levels or capacities as are feasible, is no longer effective in eliminating such potential interruption to mining or processing activities from the water levels, or (c) the expiration or earlier termination of this Temporary Agreement. To the extent Cemex determines circumstances may require any increase, expanded, or accelerated pumping, then Cemex and District agree to negotiate in good faith any reimbursements to Cemex or adjustments to the credit set forth in Section 4 below to account for such additional costs or expenses.

4. District to Credit Pumping Costs Against Guaranteed Annual Royalty. District shall credit the actual, reasonable costs incurred by Cemex to maintain and operate its temporary water pumping facilities at the Affected Area against Cemex's Guaranteed Annual Royalty otherwise due during the term of this Temporary Agreement, which credit shall be applied monthly up to a maximum monthly amount equal to 1/12 of the then-current Guaranteed Annual Royalty. Such credit shall be limited to actual, reasonable out-of-pocket expenses, and shall not include profit or administrative overhead adjustments or load factors. Cemex shall include in its monthly production statements the amount of pumping costs claimed as credit against Guaranteed Annual Royalty, and upon request by District, shall provide the invoices or other backup documentation reflecting the amount of such pumping expenditures and the resulting claimed credit. Such credit shall apply to Guaranteed Annual Royalty amounts only, and not to any royalty payments otherwise due for production in excess of amounts covered by the monthly Guaranteed Annual Royalty payment.

5. No Liability Admitted, Waiver. This Temporary Agreement effectuates a compromise between District and Cemex as partners under the Lease, and is not, nor shall be read as, an admission of liability by either party to the other. As partial consideration for the District's crediting the pumping costs hereunder and for Cemex's continued pumping, (a) Cemex holds the District, and its successors and assigns, officers, directors, employees, representatives, and agents harmless from, and waives any claims, demands, or causes of action which Cemex may have as of the date of this Temporary Agreement and through the term of this Temporary Agreement, arising out of the District's exercise of its reserved water spreading rights under the Lease, provided any future exercise of such rights are in accordance with the terms and conditions of the Lease, and (b) District holds Cemex and its affiliates and each of their successors and assigns, officers, directors, employees, representatives, and agents harmless from, and waives any claims, demands, or causes of action which District may have as of the date of this Temporary Agreement and through the term of this Temporary Agreement, arising out of Cemex's pumping and redirecting of the water from the Affected Area pursuant to this Temporary Agreement. In connection with such waiver, Cemex and District each agrees for itself and its successors and assigns,

parents, subsidiaries, affiliates, officers, directors, employees, shareholders, representatives, and agents to release and forever discharge the other and the other's successors and assigns, officers, directors, employees, representatives, and agents from any and all claims, demands, causes of action, rights of action, suits, debts, damages, costs, legal fees, expenses and any other liabilities whatsoever arising from or relating to waived claims. This waiver extends to all claims known or unknown by either party, and both expressly waive the benefits of Civil Code § 1542 in connection with the releases and waivers stated herein, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Cemex and District each acknowledge that it has had the opportunity to discuss with counsel the scope and import of this waiver, and has knowingly and willingly entered into it.

6. Corporate Authority. Each party represents to the other that the person whose signature appears below has the authority to sign on behalf of the party for whom the signature appears, and that by so doing, such party is not thereby in breach or violation of any other contract or agreement.
7. Entire Agreement. This Temporary Agreement contains the entire understanding of the parties as to the subject matter hereof, and supersedes all prior representations, negotiations, or promises. This Temporary Agreement may only be amended by way of written instrument, signed by both parties.
8. Lease Unaffected. Except with respect to the terms and provisions of this Temporary Agreement, and the waivers stated herein, the remainder of the Lease is unaffected, and no amendment thereto by this Temporary Agreement is intended or should be implied.
9. Dispute Resolution; Attorney's Fees. District and Cemex agree that paragraph 8 (Binding Arbitration) and paragraph 15.9 (Attorneys' Fees) of the Lease shall apply with respect to disputes that may arise under this Temporary Agreement.

10. Severability. The provisions of this Temporary Agreement are severable, and if any provision is invalid or otherwise held unenforceable, the parties intend that all other provisions shall remain in full force and effect.
11. Construction. This Temporary Agreement is the product of negotiations between the parties, both represented by counsel, and shall not be construed for or against either party due to draftsmanship.
12. Counterparts. The provisions of this Temporary Agreement are severable, and if any provision is invalid or otherwise held unenforceable, the parties intend that all other provisions shall remain in full force and effect.

[Signatures on following page.]

ENTERED INTO EFFECTIVE THE DATE FIRST ABOVE WRITTEN.

SAN BERNARDINO VALLEY
WATER CONSERVATION DISTRICT

By: _____
Melody McDonald, President

Approved as to Form:

David B. Cosgrove, General Counsel

CEMEX CONSTRUCTION MATERIALS
PACIFIC, LLC

By: _____

Name: _____

Its: _____



**San Bernardino Valley
Water Conservation District**

Helping Nature Store Our Water

Memorandum No. 2033

To: Board of Directors
From: David B. Cosgrove, General Counsel
Date: June 12, 2024
Subject: General Manager Bonus and Salary Adjustment

RECOMMENDATION

The Ad Hoc GM Evaluation Committee recommends that the Board, consistent with the compensation provisions of her employment contract, approve an increase the General Manager’s base salary in the amount of Twenty-Two Thousand Eight Hundred Thirty-Two dollars and Twenty-Four cents (\$22,832.24), which represents the cost-of-living percentage adjustment given to all District employees of 3.6 percent (3.6%) and a five percent (5%) merit increase; and approve a merit bonus payment of \$15,000.

BACKGROUND AND DISCUSSION

The Ad Hoc GM Evaluation Committee met on April 30, 2024, to review the General Manager’s annual performance. Ms. Miller provided the Ad Hoc Committee with a summary of activities, accomplishments, and achievements of defined District objectives, from which to conduct its review. A copy of that summary is attached.

The Board met in closed session to review the General Manager's annual performance on May 15, 2024. At this meeting, the Board directed the District Counsel to summarize the comments provided into a written review to be delivered on June 12, 2024.

The General Manager’s performance review will be provided in closed session, per Government Code section 54957.1 (b). Any action on pay adjustments, however, is required to be in open session, as included in this agenda item. While the performance review is confidential, it likely violates no privacy concerns to report that the General Manager's performance review was positive. The Board is pleased with the progress the District has made under her leadership over the past two years, and looks forward to continued growth and achievement of Board objectives going forward.

The Ad Hoc Committee has made recommendations regarding adjustments to the General Manager’s compensation package, consistent with her “Agreement for Employment of General Manager” dated May 19, 2022. The General Manager’s salary is currently Two Hundred Sixty-Five Thousand Four Hundred Ninety-One Dollars and Twenty Cents (\$265,491.20) per year. Under paragraph 5 of the referenced

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Redlands, CA 92373
Phone: 909.793.2503
Fax: 909.793.0188
www.sbvwd.org Email: 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

agreement, Ms. Miller is entitled to the COLA percentage adjustment provided to all District employees, which is 3.6% in FY25. The FY25 COLA amounts to an additional Nine Thousand Five Hundred Fifty-Seven dollars and Sixty-Eight cents (\$9,557.68) for the upcoming year. In addition, the Ad Hoc committee recommends a merit increase of an additional five percent (5%), which amounts to Thirteen Thousand Two Hundred Seventy-Four dollars and Fifty-Six cents (\$13,274.56). Together, these amounts add up to a new base salary for the General Manager of Two Hundred Eighty-Eight Thousand Three Hundred Twenty-Three dollars and Forty-four cents (\$288,323.44).

The General Manager is also entitled to a discretionary performance-based bonus of up to \$15,000.00. The Ad Hoc Committee recommends awarding the full eligible amount to the General Manager based on the Board's review of the achievement of District Board objectives for the year, personnel management, District outreach and recognition, and advancement of the District's capital projects goals, to name a few.

FISCAL IMPACT

Approval of this item would result in a total possible compensation package to the General Manager of Three Hundred Three Thousand Three Hundred Twenty-Three dollars and Forty-Four cents (\$303,323.44) in FY 25, if she is awarded a full bonus in 2025. The COLA and merit raises represent an aggregate increase of Twenty-Two Thousand Eight Hundred Thirty-Two dollars and Twenty-Four cents (\$22,832.24) to the General Manager's base salary.

POTENTIAL MOTIONS

1. Approve the three point six percent (3.6%) cost of living adjustment to the General Manager's base salary, for an additional Nine Thousand Five Hundred Fifty-Seven dollars and Sixty-Eight cents (\$9,557.68).
2. Approve an additional merit increase of five percent (5%) to the base salary, for an additional Thirteen Thousand Two Hundred Seventy-Four dollars and Fifty-Six cents (\$13,274.56). Together, these amounts add up to a new base salary for the General Manager of Two Hundred Eighty-Eight Thousand Three Hundred Twenty-Three dollars and Forty-Four cents (\$288,323.44).
3. Approve a merit performance bonus for the General Manager of Fifteen Thousand dollars (\$15,000.00).
4. Provide other directions to staff.
5. Refer the item back to the Ad Hoc Committee for additional consideration.

ATTACHMENTS

Year 2 Accomplishments Table

2023		2024		Progress Report
Existing Groundwater Recharge Operations	1	Groundwater Recharge Operations	1	<ul style="list-style-type: none"> • Recharge = 85,302 AF in Water Year 2022-2023. • Recharge = 45,674 AF to-date (3/30/2024) in Water Year 2023-2024. • Recharge of 87,914 AF in Calendar Year 2023 exceeded all previous annual District recharge records (1912-2023).
Active Recharge Transfer Projects Feasibility Studies	2	PERC Project Feasibility Studies	3	<ul style="list-style-type: none"> • Twin/Waterman/Lynwood contract NTP issued on 2/2/2022, survey complete, geotechnical testing complete, flood event hydrology analysis and average annual analysis complete, existing condition hydraulic studies complete, existing condition basin routing complete, existing condition sediment transport analysis complete, proposed condition modeling pending SBCFCD acceptance of existing condition, groundwater modeling set up complete, on budget • Plunge/Oak contract NTP issued 2/16/2022, survey complete, flood event hydrology and average annual hydrology complete, geotechnical testing complete, existing condition hydraulic studies and basin routing in process, sediment transport analysis complete, groundwater modeling set up complete, on budget • Mill/Cook contract NTP issued 3/15/2022, Mill Creek survey complete, Mill Creek flood event hydrology analysis and average annual hydrology analysis complete, Bledsoe Creek average annual hydrology analysis complete, Mill Creek geotechnical testing complete, Cook Creek seismic refraction/reflection analysis complete, Mill Creek basins existing condition hydraulic analysis complete including infiltration results from geotechnical testing, Mill Creek Diversion Improvement additional hydraulic modeling complete, softplug existing condition hydraulic modeling complete, additional diversion structure hydraulic analysis in process, Mill Creek sediment transport analysis in progress, Mill Creek groundwater model set up complete, on budget • Resolution supporting PERC projects passed by the County Board of Supervisors on 4/26/2022
Mill Creek Diversion Permits	3			Complete.
Mill Creek Diversion Construction Complete	4			Complete.
Wash Plan State and Waters Permits Issued	5	Wash Plan State/Waters Permits	6	<ul style="list-style-type: none"> • RWQCB 401 Water Quality Certification and Order for the Upper Santa Ana River Wash Habitat Conservation Plan, Covered Activities was issued on 7/29/2022 (SARWQCB WDID # 362021-07). • CDFW Streambed Alteration Agreement for Routine Maintenance was issued on 11/9/2022 (1600-2021-0005-R6) • CDFW Streambed Alteration Agreement for construction projects was issued on 12/13/2022 (EPIMS-SBR-23918-R6). • USACE 404 Programmatic Individual Agreement is expected in June 2024 per USACE staff. • CDFW 2081 permit was issued for Robertson's mining in January 2024. • CDFW 2081 permit is in process for CEMEX's mining.
Wash Plan - Land Exchange and ROW	6	Wash Plan BLM Land Exchange	4	Close of escrow is expected in June, per BLM email dated April 6, 2024.
Wash Plan Natural Resources Management Plan	7			Complete.
Mentone Shop Design and Permitting	12			Complete.
Mentone Shop Construction Complete	13	Mentone Shop Permitting and Construction	5	Construction began on March 26 with 90 scheduled working days.
Mill Creek Operations Permitting	8	Mill Creek Operations Safe Harbor Agreement	8	<ul style="list-style-type: none"> • The revised application for a Safe Harbor Agreement was submitted to USFWS on 3/5/2024. • USACE Approved Jurisdictional Delineation and Determination of Need for Department of the Army Permit (stating that a USACE permit is <i>not</i> required for this project) were issued on 3/17/2023. • RWQCB permit application is scheduled for submission in April 2024. • CDFW 2081 permit discussion will begin following receipt of Wash Plan 2081 (see 2024 Priority 6).
Wash Plan Trails MOU Approval	14	Wash Plan Trails MOU, Permitting and Operations Plan	9	<ul style="list-style-type: none"> • Trails MOU approved by City of Highland on 1/11/2022. • Trails MOU planned for presentation to Council on 5/7/2024 by the City of Redlands.
Five Year Strategic Planning Update	9			Complete.
Community Mitigation Conservation Easements	15			CDFW is completing review of the Conservation Easement and associated easement documents.
Initiate ARTP Final Design	16	Initiate Final Design for Top Priority PERC Project	13	Pending additional feasibility study results (see 2024 Priority 3).
Renew Groundwater Council Agreement	10			A one-year extension to the Groundwater Council was approved in June 2023.

Apply and Secure Grant Funding for ARTP Projects	11	Apply for and/or Secure Grant Funds	14	<ul style="list-style-type: none"> • An application for the WaterSMART Applied Science Grants entitled Knowledge Systems Development Through Integrated Santa Ana River Model Enhancements to Quantify a Century of Managed Aquifer Recharge and Build Forecasting Capacity for the San Bernardino Basin was submitted in October 2023. • An application for the WaterSMART Planning and Project Design Grants is in preparation for the Mill Creek PERC project for submittal in May 2024. • District staff and consultants are evaluating the Community Funding Program for fit for Mill Creek recharge facility restoration following the 2023 season.
		Operate Enhanced Recharge Basins	2	Two new Enhanced Recharge basins began operation in January, three additional new basins began operation in March, and two additional new basins began operations in April.
		Facilities Maintenance Plan	7	A comprehensive field review of maintenance needs at the Mill Creek recharge facilities is complete; additional coordination with our field operations team will be completed prior to finalizing the plan. Review of the Santa Ana recharge facilities maintenance needs will be completed in coordination with development of the Enhanced Recharge Operations and Maintenance Plan.
		Communications and Engagement Plan	10	Draft plan will be finalized following review by the General Manager.
		Expand Integrated SAR Model to Incorporate Recharge	11	Project began in January 2024.
		Analyze Wash Plan SBKR Data	12	Initial data review is complete; in-depth analysis will begin following the spring 2024 field season.



San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

Memorandum No. 2034

To: Board of Directors

From: David B. Cosgrove, General Counsel

Date: June 12, 2024

Subject: Acknowledgement of Service of Director David E. Raley and Direction to Staff regarding Government Code Section 1780

RECOMMENDATION

With heavy hearts and abundant gratitude, acknowledge Director David E. Raley’s leadership and service to the District, and direct staff to proceed with appointment of a successor to serve until the next general election, pursuant to Government Code procedures governing vacancies on elected special district boards.

BACKGROUND AND DISCUSSION

On June 4, 2024, the District received the tragic news that we have lost a true giant in District leadership, and a friend to us all. Colonel David E. Raley, USAF, Retired, who has served the District both fiercely and loyally for over fourteen years, passed away on Sunday, June 2, 2024.

By any measure, Director Raley’s presence on the Board has been impactful. He was direct but gentlemanly in all his communications, insightful in his analysis, and undisturbed to question the status quo. Most notably, he pulled no punches in his passionate dedication to public service, and particularly, the responsible stewardship of public funds. His life resonated with leadership, both in his military career and in his role as a public servant. He was deeply proud of both, and rightfully so, given the stellar record he compiled in each. The District is profoundly grateful for his contributions to our mission and the personal regard he always showed to those who try to fulfill it. The legacy of his presence will inure benefit to our organization for years to come.

The news is particularly poignant, since the District just last January passed a resolution honoring him on the occasion of his ninetieth birthday. As sad as the news of his passing is, the District is gratified in some measure by knowing he knew the justifiably high esteem in which he was held, and always will be. He will be deeply missed.

Director Raley also had a keen sense of duty, and it is in that memory that the District must now face its responsibilities under the Government Code for filling the vacant seat on the Board. The applicable procedures appear in Government Code section 1780, which permits the Board to either appoint a successor, or call an election to do so. Should the Board opt for an appointment, as it has when vacancies

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Melody McDonald

GENERAL MANAGER

Betsy Miller

have occurred in the past, here it has sixty (60) days after the date on which the Board was notified of the vacancy to do so. We were notified by Director Raley's family of his passing on June 4, 2024, and therefore, any appointment would have to be made no later than August 2, 2024. Note that District staff advised the Registrar of the vacancy on June 4, 2024, as required under Government Code section 1780(b).

Under Government Code section 1780(d)(2), the appointment would be for service until the District's next general election, on November 5, 2024. This is because Director Raley's vacancy has occurred in the first half of his term running to 2026, and more than 130 days before our next general election. Under this scenario, the appointment would be effective until a person is elected to fill the vacancy, who would then hold office for the remainder of the unexpired term.

The Government Code requires a notice of the vacancy be posted in at least three (3) conspicuous places in the District, at least fifteen (15) days prior to the actual appointment. Staff would propose to follow past practice of soliciting applications through such notices, and scheduling interviews before the Board of applicants whose qualifications and statements of interest are received. Our regular Board meeting for July is set for the 10th, and if that timing is too tight, staff could be directed to arrange a special meeting.

Alternatively, the District could call an election to fill the seat, under Government Code section 1780(e). That would result in an election on the next regular election date of November 5, 2024. The practical difference between the two would be the seat would remain empty until the election in this scenario, whereas, an appointee would serve until then, and could also potentially run as an appointed incumbent.

As of this writing, staff is unsure of any potential cost implications of the election options, but will strive to have more information at the time of the Board meeting.

POTENTIAL MOTIONS

1. Determine to fill the Board vacancy by appointment, per Government Code section 1780(d), and direct staff to establish a process to solicit qualifications and statements of interest from candidates, and set up a schedule for Board review and interviews of interested parties.
2. Determine to fill the vacancy by Election per Government code section 1780(e), and direct staff to coordinate with the San Bernardino County Registrar of Voters re such an election.
3. Provide other directions to staff.



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

Environmental Update
as of May 31, 2024

Wash Plan Implementation – Monitoring Activities

- **SBKR Monitoring Program**
 - Habitat surveys of SBKR monitoring plots within the Wash Plan Preserve and at the Mill Creek Facilities were initiated by District staff on March 19.
 - As of May 30, staff completed habitat surveys on all 146 plots to be surveyed across the Wash Plan Preserve and Mill Creek Facilities this spring. Completed surveys represented the third year of implementing the SBKR habitat assessment survey protocol across the Wash Plan Preserve and the first year of implementing the protocol at Mill Creek. Surveyed plots at both sites are scheduled to be trapped for SBKR in the fall.
- **California Gnatcatcher Monitoring Program**
 - As of May 16, all three rounds of California gnatcatcher surveys and the complementary vegetation monitoring activities were completed at four locations within the Wash Plan Preserve in support of the range-wide monitoring program for the species overseen by the USGS and USFWS. The range-wide monitoring efforts, which occur every four years, provide the USFWS with a measure of the status and trend of the California gnatcatcher from Ventura to the United States - Mexico border.
 - For the fourth year in a row, the first and second rounds of California gnatcatcher surveys required by the Wash Plan were completed by Mikael Romich in the Wash Plan Preserve in April and May, respectively. A third round of surveys is to be completed in June.
 - In April and May, for the second year in a row, Mikael Romich completed the first and second rounds of California gnatcatcher surveys at the Mill Creek Facilities consistent with the draft Safe Harbor Agreement with the USFWS.
- **Slender-horned Spineflower Monitoring Program**
 - District staff conducted annual monitoring of known patches of SHSF within the Wash Plan Preserve on May 14, 21, 22, and 29. In total, over the four field days, 21 patches were monitored allowing for comparisons across the 2022, 2023, and 2024 field seasons.
 - On May 14 and 23, staff worked with the California Botanical Garden (CalBG) to collect SHSF tissue for use in laboratory studies documenting the genetic diversity found within and between known SHSF populations. CalBG's activities are funded through a contract with BLM and will help inform future restoration work supporting the species.



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Wash Plan Implementation – Management Activities

- Slender-horned Spineflower (SHSF) Restoration Program
 - On January 4, District staff confirmed the germination of SHSF at the experimental out-planting locations following seeding in November. Monitoring was conducted in January (1,136 plants), February (2,961), March (5,205), and April.
 - A fifth round of surveys were conducted on May 22, 23, and 28. The total number of plants counted at out-planting sites totaled 2,845 during the May surveys. A significant number of plants were noted as flowering, and pollinator activity was observed. Natural and incidental mortality was also noted.
 - A sixth and final round of monitoring of the out-planting sites is to be conducted by staff sometime in the first couple of weeks of June. During this final visit to the out-planting sites, seed will be collected for future testing of viability to confirm successful pollination of plants growing at the experimental sites.
- BLM Fuels Management Grant
 - Beginning in December 2023, Nakae & Associates performed herbicide treatment across approximately 70 acres of heavily infested grasslands located just west of Railroad Line Road. Work continued in January and February, and by early March, Nakae had expanded herbicide treatment to include treatment of broadleaved invasives, principally mustard, across the entirety of the 125-acre area treated for annual grasses stretching from Cone Camp Road to the Plunge Creek Conservation Project.
 - In late April, Mikael Romich assessed opportunities for sand spreading and soil scraping supporting fuel management activities within the areas treated by Nakae & Associates.
 - On May 15, staff met with BLM in the field to discuss project progression and plan next steps.
 - In late May, Nakae made a second pass within the treated areas to address newly emerged broadleaved invasives.

Wash Plan Implementation – Organizational Structure, Planning, and Reporting

- The regularly scheduled monthly coordination meeting with the USFWS was held on May 21. During the meeting, staff provided updates tied to fieldwork implemented in the spring field season. Key agenda items to be addressed at the upcoming June meeting of the Preserve Management Committee were also shared and discussed by staff.

Wash Plan Programmatic Permits

- USACE 404 Programmatic Individual Agreement – Beginning in January 2023 and extending through May 2024, District staff and AECOM have continued to meet with USACE weekly in support of the completion of the EA and eventual issuance of the standard individual permit. As of early April, the Corps' cultural resources officer and lead



**San Bernardino Valley
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permitting specialist were in the process of engaging both Tribes and the State Historic Preservation Officer prior to the finalization of the 404 permit, now estimated to be completed by the end of September 2024.

- In response to CDFW's recommendation for a phased approach to permitting Wash Plan Covered Activities, District staff organized several meetings beginning in August 2023 with the Department and Robertson's Ready Mix and CEMEX to facilitate the issuance of 2081 Incidental Take Permits for near-term mining activities covered under the Wash Plan. This resulted in CDFW sharing a completed 2081 Incidental Take Permit with Robertson's Ready Mix and the District for authorization to incidentally take San Bernardino kangaroo rat and slender-horned spineflower as a result of the eastern expansion of the Old Webster Quarry by Robertson's Ready Mix on January 5.
- In May, District staff continued to meet with CEMEX and Roberston's Ready Mix to discuss ongoing communications with CDFW and appropriate next steps for permitting mining activities consistent with the Wash Plan.

Mill Creek Programmatic Permits

- The Safe Harbor Agreement was finalized in February and submitted to the Service for review and approval on March 5.
- On May 17, the District and USFWS met to discuss their comments and next steps tied to approval of the Safe Harbor Agreement.

Partnership Activities

- On May 8, District staff led a tour of Plunge Creek for interested attendees of the California Society for Ecological Restoration's annual conference, which will be held at the University of Redlands on May 8, 9, and 10.
- On May 15, District staff led a tour of Plunge Creek for members of the Forecast-Informed Reservoir Operations (FIRO) Environmental Working Group for Seven Oaks Dam (SOD) hosted by Valley District and the Climate, Atmospheric Science & Physical Oceanography Division of the Scripps Institution of Oceanography. The tour was part of an all-day event designed to provide participants with a comprehensive understanding of the environmental conditions associated with the Santa Ana River from above SOD to Prado Basin.
- Milan Mitrovich and Laura Torres participated in the tour of the State Water Project and the Sacramento and San Joaquin Delta sponsored by the Metropolitan Water District and hosted by the San Bernardino Valley Municipal Water District on May 29, 20, and 31. Traveling with a group of over 30 individuals largely representing the staff and elected officials from a number of agencies active in water in the San Bernardino Valley and surrounding areas, staff learned about present-day and planned water projects through engaging in discussion and visiting the Sacramento Weir, Oroville Dam, the future site of the Sites Reservoir, the Bethany Reservoir marking the northernmost stop on the California Aqueduct and termination point of the Delta Conveyance Project, and the Delta at Big Break Regional Shoreline.



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

Engineering Update
as of June 3, 2024

Mentone Shop

- Construction began on March 26, 2024.
- Received schedule from contractor.
- Footings and foundation slab were poured May 28, 2024.
- G3 Quality on-site to take cylinders for the strength test.
- Excavation for septic tank to begin June 13, 2024.
- The building delivery is expected June 27, 2024.

Enhanced Recharge Phase 1B

- Basins C, D, E, 15, and G are expected to begin receiving recharge flows in early June.
- Basins CC, DD, and EE are expected to begin receiving flows in mid-June. Work on cutthroat flumes from CC to DD and DD to EE is nearing completion.
- Ongoing coordination with SBVMWD's team has allowed recharge from the Santa Ana River and/or State Water Project to continue during construction.
- Recharge will continue to be limited within our Santa Ana Recharge Facility from early to late June to address the effects of high groundwater on construction; staff proposes to clean Basins 10 and 18 (D Dike) during this period.

PERC (Active Recharge Transfer) Projects

PERC Projects: Waterman, Twin Creek, and Lynwood Basins (Tetra Tech Consulting Team)

- District staff and consultants have developed alternatives to discuss with the San Bernardino County Flood Control District (FCD) on June 6, 2024, which will inform the project's next steps. Per earlier discussions with FCD, conceptual alternatives for each site will be developed and submitted independently.
- District and Tetra Tech are discussing possible scope revisions for hydraulic modeling as part of the value engineering task to replace a grading alternative with an operational alternative of diversion operation revisions.
- Hydraulic modeling of existing conditions is done, and the next steps will involve hydraulic modeling of operational alternatives (e.g. existing gate settings) and/or grading alternatives (e.g. changing sizes of basins).
- Geotechnical work on infiltration and its analysis are being used for basin infiltration modeling.
- Water availability for groundwater recharge has been reviewed and is acceptable.

PERC Projects: Plunge and Oak Creeks (CASC Consulting Team)

- Flood Control has approved the Q100 model using their modeled flow rates for peak flows as compared to Army Corps of Engineers flow rates.
- District staff reviewed the average storm event analysis prepared by the consulting team and requested a different approach to utilize real-time gage data as the basis of the hydrology analysis



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of the frequency, duration, and spacing of stormflows. A scope of work and fee estimate have been received and is under review.

- District staff have received the sediment transport analysis, which appears to require revision for the project-sized stormflow event sediment transport.
- Hydraulic modeling of an Oak Creek Basin is underway.

PERC Projects: Mill, Bledsoe, and Cook Creeks (Q3 Consulting Team)

- Bledsoe Creek and Cook Creek have been eliminated from further analyses due to cost/benefit, permitting concerns, and unsuitability of geology.
- The average annual hydrology study results for Mill Creek are complete and have been reviewed by District staff. District staff have provided written acceptance of the project-related hydrology study. Project sizing considerations will be developed from typical stormflows.
- The basin routing model was developed for the Conservation District's proposed alternative and existing conditions. Monthly progress meetings are held to ensure the project's progress.
- District staff developed a grant application to the US Bureau of Reclamation for \$400,000 of cost support for planning and design to a 60% design level or higher, as called for in the current Q3 Consulting Team contract.

Upper SAR Watershed Models for Surface Water to Groundwater Interaction

- District staff completed data assembly for early district operations, both recharge area footprints over time and water diversion and monthly recharge quantities over time.
- Close coordination continues with the City of San Bernardino and Valley District to ensure that modifications from this work can benefit other agencies' projects wherever possible.



San Bernardino Valley Water Conservation District

Helping Nature Store Our Water

PERC Status Report No.18

To: Partnership Agreement Policy Committee

From: John Lambie, P.E., C.E.G., Consulting Chief Engineer and Groundwater Hydrologist

Date: June 4, 2024

Subject: PERC Project Status Report

BACKGROUND

The boards of the San Bernardino Valley Water Conservation District (Conservation District) and San Bernardino Valley Municipal Water District (Valley District) have agreed to draw from the best of both districts to promote a brighter future for groundwater storage and protection of threatened species in the region. This collaborative effort has been realized through the execution of the Partnership Agreement for Active Recharge Project Development under the Upper Santa Ana River Habitat Conservation Plan (Agreement).

The Agreement includes the requirement for the formation of a Partnership Agreement Policy Committee to review and advise the Conservation District staff on a number of items covered in the Agreement. The committee is to meet quarterly throughout the duration of the development of Active Recharge Transfer Projects (ARTP, now PERC). Major items of work in the partnership include:

- The Conservation District will provide up to 295 acres of conservation easements to the San Bernardino Valley Conservation Trust, to help offset the environmental impacts of active recharge projects being undertaken to enhance groundwater recharge and storage.
- Valley District will provide funding to the Conservation District, for building new recharge projects, for each acre of conservation easement the Conservation District transfers to the trust.
- Valley District will fund a permanent endowment with the Conservation Trust to support the management of habitat mitigation land.
- Valley District will transfer to the Conservation District the implementation, management, and eventual ownership of the following tentative list of proposed Active Recharge Projects:
 1. Mill Creek Diversion (expansion, construction, and operations)
 2. Plunge Creek Basins 1 (construction and operations)

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3. Plunge Creek Basins 2 (construction and operations)
 4. City Creek Basins (construction and operations)
 5. Waterman Percolation Basins (reconstruction and maintenance)
 6. East Twin Creek Basin (repairs and maintenance)
- The Conservation District will develop plans, specifications, estimates and bid packages (Construction Package) on planned projects and submit them to the Committee for review and concurrence.
 - Valley District will draft, and process all required permits and any items of work required under NEPA or CEQA including Water Rights.

This status report is a summary of work completed to date on these major items and provides a look ahead at the planned work in the upcoming quarter.

PROGRAM UPDATES UNDER THE AGREEMENT

Conservation Easement (CE) Payment Obligation

The agreement requires payment of 50% of the funds for the CE at completion of the Due Diligence which was paid on June 20, 2019. The remainder was paid on January 13, 2022, for a total paid to date of \$36,875,000.

Conservation Easement Usage Status (295 Acres initially set aside)

Covered Activity (project)	Implementing Agency	Easement Area required (ac)	Easement recordation date	Remaining Available Acreage
				295

Program Management

The following items of work under the ARTP Agreement have been performed:

1. A Program Management Plan to guide the long-term implementation of the program was developed and is being adhered to.
2. A planning level Memo of Understanding (MOU) was developed and adopted by SBVWCD and SBCFCD. Meetings have been held as necessary to keep the coordination and approval processes moving forward. A resolution was passed by the County Board of Supervisors to support the coordination.
3. Request for Qualifications (RFQ) process was undertaken to develop a list of qualified consultants. process resulted in a summary matrix of the fourteen consulting firms based on category and type of work for which they are qualified.

4. Requests for Proposals (RFPs) were issued for three (3) different project groupings to address eight (8) potential project locations. Three contracts were awarded.
 - i. Tetra Tech was awarded a Feasibility Study Support Services contract for the project facilities owned and operated by San Bernardino County Flood Control District (SBCFCD) Waterman Percolation Basins and Twin Creek Spreading Grounds, along with the addition of SBCFCD's Lynwood Basins. Contract is in the amount of \$1,530,615. Contract expenditures to date are approximately \$993,000.
 - ii. Q3 was awarded a Feasibility Study Support Services contract for Mill Creek, City Creek, Bledsoe Creek, and Cook Creek with the inclusion of engineering design services up to 65% design on the best alternative, total contact amount of \$2,190,644. Optional tasks for City Creek diversion-improvements evaluations were removed from the contracted scope of services. Optional tasks to evaluate Bledsoe and Cook Creeks project alternatives were activated. The contract includes preliminary engineering for all three sites. Contract expenditures to date are approximately \$677,000.
 - iii. CASC Engineering was awarded the Feasibility Study Support Services contract for the Plunge Creek and Oak Creek in the amount of \$786,880 and the Notice to Proceed has been issued. Contract expenditures to date are approximately \$390,000.

The following items of work on the PERC Projects are in progress (see subsequent sections):

1. Status and Activity on PERC Projects
2. Next Steps – Planned for Upcoming Quarter

1. Status and Activity on PERC Projects (as listed in the ARTP Agreement) PS&E Status

Project Name	Project Priority	Current Plan Phase	CEQA Status	Required Agreements / Permits w/ status	Construction Target date	Recent Activity
Mill Creek Diversion	1	Best Alternative Identification	Not started	ACOE – Not started SBCFCD – Not Started	FY26/27	Percolation testing was completed Fall 2023 and a partial geotechnical report drafted on the project-design percolation rates received in March 2024. Percolation rates have been integrated into the existing condition hydraulic model and the proposed condition hydraulic modeling using those rates for the Mill Creek South Boundary Canal and basin enhancements is in development as of April 17, 2024.. An average annual stormwater availability analysis using regional flood frequency analysis was completed for Mill Creek and Bledsoe Creek and accepted by District staff.
Plunge Creek Basin 1 &2 (now Plunge Creek Quarry Basins)	3	Preliminary Design	Not started	RRM – Initiated Concept Level Discussion SBCFCD – Initiated through MOU	Not determined	Existing Q100 hydrology and geotechnical testing has been completed. The draft floodplain modeling report was completed and SBCFCD accepted the cross sections. The draft geotechnical report was submitted and well received by staff. The project hydrologic sizing analysis for average annual yield was rescoped with CASC. The sediment transport analysis has been completed and is under review by District staff.
City Creek (now Bledsoe and Cook Creek)	0	Concept	Not started	SBCFCD – Not Started	Not determined	Note: Cook Creek project has been eliminated. Note Bledsoe Creek site determined to have low annual yield and environmental conditions, proposed for elimination.

Waterman Percolation Basins	2	Conceptual Operational Alternatives and Grading Alternatives Design	Not started	SBCFCD - Initiated through MOU	Not determined	Hydrology modeling has been accepted. Existing conditions hydraulic models have been completed in 1D and 2D. Geotechnical testing is completed, and the preliminary report received. The Average Annual Storm report was finalized. The diversion analysis has been completed for the existing condition current gate settings. The existing condition basin routing results have been shared with District staff and discussed. An operational conditions set of alternatives for gate settings at Waterman is under review and development with District staff.
Twin Creek	2	Preliminary Design	Not started	SBCFCD – Initiated through MOU	Not determined	The sediment transport model has been developed and was submitted to District staff in March 2024 for review...See Waterman Spreading Grounds.

1. Status and Activity on PERC Projects (not listed in the ARTP Agreement)

Project Name	Project Priority	Current Plan Phase	CEQA Status	Required Agreements / Permits w/ status	Construction Target date	Recent Activity
Oak Creek Basin	1	Preliminary Design	Not started	SBVMWD– Initiated SBCFCD – Initiated through MOU	FY 25/26	See Plunge Creek Basin 1 & 2. Hydraulic analysis of the existing City Storm drains has been completed and submitted to District.
Lynwood Basins	1	Conceptual Design	Not started	SBCFCD – Initiated through MOU	Not determined	Geotechnical testing was completed. Preliminary geotechnical report identified lower infiltration rates in the Lynwood Basins than in the nearby Twin Creek Spreading Grounds are likely. .

2. “Next Steps” - Planned and Anticipated Work for Upcoming Quarter

Project	Planned Activity
Mill Creek Diversion	Hydraulic modeling of District provided grading Alternative in RFP. Hydraulic water-spreading model is using infiltration rates developed in April 2024 from geotechnical field testing of infiltration rates. Hydraulic modeling to analyze both a clean recharge basin scenario and for reduction in infiltration rates due to gradual clogging prior to maintenance. Consultant to then develop two (2) additional grading alternatives per Scope of Work with possible revision of South Boundary Canal interlinkages and operations. Work with consulting team on finalizing sediment transport model and report draft.
Plunge Creek Quarry Basins	Develop project hydrology from gage data for diversion and basin sizing. Meet with SBCFCD on project concepts. Meet with City of Highland and discuss both Plunge and Oak Creek Project sites.
Oak Creek Diversion	Hydraulic analysis of the existing City storm drains has been completed and submitted to District. Complete initial hydrology and hydraulics studies. Continue hydraulics, basin routing, and sediment transport studies. Initiate preliminary design and feasibility study for potential Small Storage Grant funding.
Waterman Spreading Grounds	Meet with SBCFCD to review project alternatives especially on operational alternatives of existing diversion gates and percolation basins.
Twin Creek Spreading Ground	Meet with SBCFCD on independent recharge project alternatives within the FEMA rated levee floodway or outside the floodway that in concept would either not increase the height of Q100 flood stage or would be designed to decrease it .
Lynwood Basins	Meet with SBCFCD to discuss operational alternatives and modifications to basin inerties.

PERC Project Schedule Overviews

Q3 - Project Site/ Key Scope of Work Items	Field surveys and base mapping	Environmental Permit for Field	Geotechnical site investigation	Baseline Flood Hydrology	Sediment transport analysis	Average Hydrology Analysis	Hydraulic Modeling of Existing Conditions	Hydraulic Modeling of Project Alternatives	Groundwater analysis	Final Draft Report Basis of Design	Concept Design Plans 30%	Value engineering and constructability review	Evaluation of the Results	Final Report	Preferred Alternatives 65% Design	Project Completion and Board Presentation
Mill Creek	6/14/2022	5/23/2023	3/29/2024	4/12/2023	? In Draft Form	4/12/2023	5/31/2024	7/31/2024	10/31/2024	12/31/2024	2/28/2025	5/15/2025	8/2/2025	8/31/2025	12/15/2025	12/31/2025
CASC - Project Site/ Key Scope of Work Items	Field surveys and base mapping	Environmental Permit for Field	Geotechnical site investigation	Baseline Flood Hydrology	Sediment transport analysis	Average Hydrology Analysis	Basin Routing Hydraulic Modeling	Groundwater analysis	Preliminary Quantity Take- Offs	Value engineering and constructability review	Evaluation of the Results	Draft Technical Report	Final Report	Project Completion and Board Presentation		
Oak Creek	4/11/2022	5/23/2023	3/2/2023	5/25/2023	3/4/2024	7/15/2024	8/31/2024	9/30/2024	10/4/2024	10/18/2024	10/25/2024	11/1/2024	12/1/2024	12/15/2024		
CASC - Project Site/ Key Scope of Work Items	Field surveys and base mapping	Environmental Permit for Field	Geotechnical site investigation	Baseline Flood Hydrology	Sediment transport analysis	Average Hydrology Analysis	Basin Routing Hydraulic Modeling	Groundwater analysis	Preliminary Quantity Take-Offs	Value engineering and constructability review	Evaluation of the Results	Draft Technical Report	Final Report	Project Completion and Board Presentation		
Plunge Creek	4/11/2022	5/23/2023	5/31/2023	5/25/2023	3/4/2024	7/15/2024	8/31/2024	9/30/2024	10/4/2024	10/18/2024	10/25/2024	11/1/2024	12/1/2024	12/15/2024		
Tetra Tech - Project Site/ Key Scope of Work Items	Field surveys and base mapping	Environmental Permit for Field	Baseline Flood Hydrology	Average Hydrology Analysis	Sediment transport analysis	Hydraulic Modeling of Existing Conditions	Value engineering and constructability review	Hydraulic Modeling of Project Alternatives	Geotechnical site investigation	Quantity Calculations	Groundwater analysis	Evaluation of the Results	Final Draft Report	Final Report	Project Completion and Board Presentation	
Waterman Percolation Basins	5/30/2023	10/3/2022	2/22/2023	11/21/2023	2/13/2024	3/15/2024	4/26/2024 +7/15/2024	8/9/2024	8/30/2024	8/30/2024	9/27/2024	10/4/2024	10/22/2024	Nov. 2024	Dec. 2024	
Twin Creek Spreading Grounds	5/30/2023	10/3/2022	2/22/2023	11/21/2023	2/13/2024	3/15/2024	7/15/2024	8/9/2024	8/30/2024	8/30/2024	9/27/2024	10/4/2024	10/22/2024	Nov. 2024	Dec. 2024	
Lynwood Basins	5/30/2023	10/3/2022	2/22/2023	11/21/2023	2/13/2024	3/15/2024	7/15/2024	8/9/2024	8/30/2024	8/30/2024	9/27/2024	10/4/2024	10/22/2024	Nov. 2024	Dec. 2024	
	Completed															
	Awaiting Conservation District Action															
	Current Work Focus															

**ACTIVE RECHARGE TRANSFER PROJECTS (aka PERC)
COST SUMMARY MAY 2024**

Project	Contract Totals	Actual FY 19/20	Actual FY 20/21	Actual FY 21/22	Actual FY 22/23	Total Cost to Date	
In-House Costs							
Salaries and Benefits	Program Management	n/a	\$161,343	\$179,535	\$198,156	\$69,677	\$608,710
Overhead	Program Management	n/a	\$77,276	\$155,064	\$84,335	\$52,616	\$369,291
Salaries / Benefits / Overhead	Plunge / Oak Creek Basins	n/a	n/a	n/a	\$10,157	\$60,745	\$70,902
Salaries / Benefits / Overhead	Waterman / East Twin / Lynwood	n/a	n/a	n/a	\$22,036	\$98,596	\$120,632
Salaries / Benefits / Overhead	Mill / Bledsoe / Cook Creek Basins	n/a	n/a	n/a	\$52,667	\$75,876	\$128,543
Total Cost	n/a	\$238,619	\$334,599	\$367,351	\$357,510	\$1,298,079	
Outside Contracts							
Mikael Romich	Plunge Creek Basins	\$1,252	\$0	\$1,252	\$0	\$0	\$1,252
Black Gold Engineering	Mill Creek	\$600	\$0	\$0	\$600	\$0	\$600
AECOM	Mill / Plunge / Oak Creek	\$118,950	\$0	\$0	\$3,594	\$11,024	\$14,617
CASC Engineering	Plunge / Oak Creek Basins	\$786,880	\$0	\$0	\$74,458	\$253,579	\$328,037
Tetra Tech	Waterman / East Twin / Lynwood Basins	\$1,530,615	\$0	\$0	\$254,415	\$549,616	\$804,031
Q3 Consulting	Mill / Bledsoe / Cook Creek Basins	\$2,190,644	\$0	\$0	\$157,643	\$320,393	\$478,036
Total Cost	\$4,628,941	\$0	\$1,252	\$490,709	\$1,134,612	\$1,626,573	
Grand Total	\$4,628,941	\$238,619	\$335,850	\$858,060	\$1,492,122	\$2,924,652	



ACTIVE RECHARGE TRANSFER PROJECTS (aka PERC) PROGRAM COST TRACKING AND BUDGET WORKSHEET

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

10-YEAR COST PLANNING

Project or Study Effort	Project Estimated Cost	Prior Years Actual	Budget Yr. 1 Actual FY 22-23	Budget Yr. 2 FY 23-24	Budget Yr. 3 FY 24-25	Budget Yr. 4 FY 25-26	Budget Yr. 5 FY 26-27	Budget Yr. 6 FY 27-28	Budget Yr. 7 FY 28-29	Budget Yr. 8 FY 29-30	Budget Yr. 9 FY 30-31	Budget Yr. 10 FY 31-32	Total Budgeted Amount	Future Funding Needs
Available Budgeted Funding	\$ 36,875,000	\$ 35,685,298	\$35,114,065	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Projected Program Management Expenditures														
Overall Planning and Program Management	\$ 4,750,000	\$ 989,795	\$ 307,510	\$ 490,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 3,600,000	TBD
Feasibility Study and Preliminary Engineering	\$ 5,543,139	\$ 436,515	\$ 1,173,589	\$ 2,375,000	\$ 1,608,035	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,160,000	\$ -
CEQA, Permitting and Conservation Easement Related	\$ 2,400,000	\$ 5,619	\$ 11,024	\$ -	\$ 800,000	\$ 500,000	TBD	TBD	TBD	TBD	TBD	TBD	\$ 1,310,000	TBD
Engineering Design and Special Studies	\$ 21,000,000	\$ 600	\$ -	\$ -	\$ 1,955,000	\$ 1,955,000	TBD	TBD	TBD	TBD	TBD	TBD	\$ 3,910,000	TBD
Total of Program Management, Design and Environmental Documents	\$ 33,693,139	\$ 1,432,530	\$ 1,492,122	\$ 2,865,000	\$ 4,713,035	\$ 2,805,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 350,000	\$ 13,980,000	\$ -
Construction Phase Work Items (includes design and permitting)														
Mill Creek	\$ 82,358,500	\$ -	\$ -	\$ -	\$ 500,000	\$ 7,743,250	\$ 7,243,250	TBD	TBD	TBD	TBD	TBD	\$ 82,358,500	TBD
Plunge Creek Basin	\$ 42,853,000	\$ -	\$ -	\$ -	\$ -	\$ -	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Waterman Basins	\$ 74,938,000	\$ -	\$ -	\$ -	\$ -	\$ -	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Twin Creek	\$ 47,060,000	\$ -	\$ -	\$ -	\$ -	\$ -	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Oak Creek	\$ 34,645,000	\$ -	\$ -	\$ -	\$ 1,455,000	\$ 1,455,000	\$ 25,000,000	TBD	TBD	TBD	TBD	TBD	\$ 34,645,000	TBD
Lynwood basins	\$ 15,037,000	\$ -	\$ -	\$ -	\$ -	\$ -	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Total Construction Phase	\$ 296,891,500	\$ -	\$ -	\$ -	\$ 1,955,000	\$ 9,198,250	\$ 32,243,250	TBD	TBD	TBD	TBD	TBD	TBD	TBD

**ACTIVE RECHARGE TRANSFER PROJECTS (a.k.a. PERC Projects)
PRELIMINARY ESTIMATES OF CAPITAL COST BY PROJECT**

PROJECT	PRELIMINARY TOTAL BID ITEMS	CONTINGENCY (30%)	DESIGN and PERMITTING (20%)	HABITAT MITIGATION MEASURES	CONSTRUCTION ADMIN (15%)	PRELIMINARY TOTAL PROJECT CONSTRUCTION COST	NOTES
MILL CREEK Phase 1	\$9,986,500	\$3,000,000	\$2,000,000	\$200,000	\$1,500,000	\$16,690,000	Costs will be refined as designs are developed in current scope
MILL CREEK Phase 2	\$37,978,500	\$11,390,000	\$7,600,000	\$3,000,000	\$5,700,000	\$65,668,500	Costs will be refined as designs are developed in current scope
OAK CREEK BASINS	\$19,422,000	\$5,830,000	\$3,880,000	\$2,600,000	\$2,913,000	\$34,645,000	Costs will be refined as 30% designs are developed in current scope
PLUNGE CREEK BASINS (FORMER SILT POND ULTIMATE COND)	\$24,150,000	\$7,250,000	\$4,830,000	\$3,000,000	\$3,623,000	\$42,853,000	Total project cost will be on the order of \$15MM if site is mined as excavation for export and other misc. items will also be zero cost in a mined site scenario
WATERMAN SPREADING GROUNDS / BASINS	\$43,842,000	\$13,150,000	\$8,770,000	\$2,600,000	\$6,576,000	\$74,938,000	Costs will not be refined further until a conceptual project plan is agreed upon with the Flood Control District
EAST TWIN CREEK SPREADING GROUNDS / BASINS	\$26,400,000	\$7,920,000	\$5,280,000	\$3,500,000	\$3,960,000	\$47,060,000	Costs will not be refined further until a conceptual project plan is agreed upon with the Flood Control District
LYNWOOD BASINS	\$8,510,300	\$2,550,000	\$1,700,000	\$1,000,000	\$1,277,000	\$15,037,000	The interim phase will be assuming operations of the basins and instituting some operational modifications at a cost of approximately \$2 million
Preliminary Estimates Total Costs				\$15,900,000		\$296,891,500	Total Cost of all projects (assuming Plunge Creek Silt Pond Basin is mined)

ACTIVE RECHARGE TRANSFER PROJECTS (a.k.a. PERC Projects)
5-YEAR PROJECTED COSTS (including maintenance and operations)

PROJECT	PRELIMINARY ESTIMATED TOTAL PROJECT CONSTRUCTION COST	PHASE 1 PRELIMINARY ESTIMATED CONSTRUCTION COST	Sum Prior FY's	FY 24/25	FY 25/26	FY 26/27	FY 27/28	FY 28/29	ESTIMATED 5-YR PROJECTED COSTS	ESTIMATED FIRST YEAR OF CONST.	NOTES
PROGRAM MANAGEMENT/ GENERAL EXPENSES	n/a	n/a	\$1,091,379	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$500,000	n/a	Costs post FY 22/23 are general admin
MILL CREEK DIVERSION AND BASINS	\$82,358,500	\$16,690,000	\$1,517,039	\$1,000,000	\$250,000	\$250,000	\$250,000	\$2,500,000	\$4,250,000	2030	FY 23/24 & 24/25 costs are feasibility study engineering. FY 25/26 thru FY 27/28 costs are final design /permitting for Phase 1 construction. Phase 1 consists of Basin 1 and Basin 2 reconfiguration and portion of new South Boundary Canal. FY28/29 includes final permitting and initial construction of Phase 2 for increasing basin sizes and percolation capacity west of Garnet St.
OAK CREEK BASINS	\$34,645,000	\$18,743,000	\$309,901	\$500,000	\$500,000	\$500,000	\$500,000	\$16,743,000	\$18,743,000	2028	FY 23/24 & 24/25 costs are feasibility study engineering. FY 25/26 thru FY 27/28 costs are final design /permitting for Phase 1 construction. Phase 1 consists of all work except Oak Creek diversion
PLUNGE CREEK BASINS (FORMER SILT POND ULTIMATE COND)	\$42,853,000	\$0	\$539,437	\$20,000	\$20,000	\$20,000	\$20,000	\$50,000	\$130,000	TBD	FY 23/24 & 24/25 costs are feasibility study engineering. FY 25/26 thru FY 27/28 costs are final design /permitting for Phase 1 construction. Phase 1 consists of Interim Basin and interim diversion structure. That work depends on coordination with BLM land transfer and mining operations.
WATERMAN SPREADING GROUNDS / BASINS	\$74,938,000	\$0	\$670,253	\$50,000	\$20,000	\$20,000	\$50,000	\$100,000	\$240,000	TBD	FY 23/24 & FY 24/25 costs are to complete feasibility study and cost benefit ratio. FY 25/26 & FY 26/27 costs are to obtain a water spreading agreement. FY 27/28 are O&M costs assuming water surface agreement has been obtained
EAST TWIN CREEK SPREADING GROUNDS / BASINS	\$47,060,000	\$0	\$662,817	\$300,000	\$20,000	\$20,000	\$0	\$100,000	\$440,000	TBD	FY 23/24 & FY 24/25 costs are to complete feasibility study and cost benefit ratio. FY 25/26 & FY 26/27 costs are to obtain a water spreading agreement. No cost assumed post 26/27 due to size of project
LYNWOOD BASINS	\$15,037,000	\$2,000,000	\$142,563	\$30,000	\$20,000	\$20,000	\$100,000	\$50,000	\$220,000	TBD	FY 23/24 & FY 24/25 costs are to complete feasibility study and cost benefit ratio. FY 25/26 costs are to coordinate under either the water spreading agreement or under a stormwater detention plan. FY26/27 and beyond are coordination costs with SBCFCD
COOK CREEK BASINS	n/a	n/a	\$79,077	\$0	\$0	\$0	\$0	\$0	\$0	na	Project has been eliminated
BLED SOE CREEK BASINS	n/a	n/a	\$12,166	\$0	\$0	\$0	\$0	\$0	\$0	na	Project does not appear feasible
Preliminary Estimates of Total Costs	\$296,891,500	\$37,433,000	\$5,024,631	\$2,000,000	\$930,000	\$930,000	\$1,020,000	\$19,643,000	\$24,523,000		

General Manager's Report

June 2024
Betsy Miller



**San Bernardino Valley
Water Conservation District**

Helping Nature Store Our Water

The following report covers the efforts and activities during the reporting period.

- 1. Water Conservation – Plan Goal 1** – Santa Ana River and Mill Creek continue to receive flows from rainfall, snowmelt, and the State Water Project. In May, Mill Creek recharge totaled 2,851.7 AF. Santa Ana River recharge for the month of April was 1,488 AF. During this time, Plunge Creek recharge was 192 AF. Total recharge across all sites for the current water year is 51,130 AF, with a total of 4,532 AF recharged in the month of May.
- 2. Facility Maintenance and Cleanout – Plan Goal 1** – Water recharge operations are focused on operating the new Mill Creek diversion, operation of the newly constructed Enhanced Recharge basins, preparing for basin maintenance at SAR in June, and on-going recharge operations at existing facilities.
- 3. Aggregate Management – Plan Goal 1** – Upland Rock continues screening and selling sand and rock from District basin cleaning efforts in support of land management efforts.
- 4. Personnel/Administration/Staff** – President McDonald, David Cosgrove, and Betsy Miller attended the Association of California Water Agencies conference in Sacramento from May 7-9.

Milan Mitrovich and Laura Torres attended a tour of the State Water Project and the Sacramento and San Joaquin Delta sponsored by Metropolitan Water District and hosted by San Bernardino Valley Municipal Water District on May 29-31.
- 5. Finance/Budget/Audit** – Prep work for the FY24 audit has begun.
- 6. Mill Creek Diversion Engineering – Plan Goals 1/4** – This project is completed, with one environmental mitigation permit requirement in progress. Operation of the new diversion has significantly reduced the sediment entering District spreading basins, which will reduce maintenance costs.
- 7. Plunge Creek Conservation Project – Plan Goals 1/4** – Total project recharge for this water year is currently 1,276 AF.
- 8. Enhanced Recharge Project – Plan Goal 1** – Ten basins are being operated for recharge, with five additional basins expected to be completed in mid-June. District biologists and engineers meet weekly with the Valley District team for project coordination, updates, and problem-solving.

9. **Program for Expansion of Recharge Capacity Project Partnership** – *Plan Goals 1, 2, and 4* – Please refer to the Engineering Update.
10. **Edison Divestiture** – *Plan Goals 1/4* – None.
11. **Groundwater Council** – *Plan Goal 1* – None.
12. **Shop Facilities for Field Staff** – *Plan Goals 1* – Construction began on March 26. Please refer to the Engineering Update for additional details.
13. **Forecast-Informed Reservoir Operations at Seven Oaks Dam** – The Seven Oaks Dam FIRO Steering Committee met on May 14.
14. **Wildland Trails** – *Plan Goal 3* – District and City of Redlands staff coordinated on this item on May 13.
15. **Wash Plan** – *Plan Goal 4* – Please refer to the Environmental Update for additional information.
16. **Santa Ana River Wash Plan Land Exchange Act Implementation** – *Plan Goal 4* – On May 7, BLM indicated that their review is nearing completion.
17. **Conservation Trust** – *Plan Goal 4* – The Conservation Trust began work under the California Fuels Management and Community Fire Assistance Program grant from BLM on District lands on December 11, with invasive grasses and forbs removed from approximately 125 acres to date.
18. **Property/Redlands Plaza** – None.
19. **Mining** – Mining efforts by CEMEX contractors continue at the Plant Site quarry. Robertson’s is expected to begin mining a new area soon following receipt of a 2081 permit from California Department of Fish and Wildlife.
20. **Public Outreach and Legislative** – *Plan Goal 5* – On May 8, District staff led a tour of Plunge Creek for attendees of the California Society for Ecological Restoration’s annual conference held May 8-10 at the University of Redlands.

On May 15, District staff led a tour of Plunge Creek for members of the Forecast-Informed Reservoir Operations (FIRO) Environmental Working Group for Seven Oaks Dam (SOD) hosted by Valley District and the Climate, Atmospheric Science & Physical Oceanography Division of the Scripps Institution of Oceanography.
21. **Current Board Action Implementation** – Significant staff resources were allocated to groundwater recharge, PERC, Wash Plan implementation, and grant applications.
22. **Future Board Activities** – Expected short-term items for consideration or note:
 - Contracts to implement the FY25 budget
23. **District Successes**

- Passed 50,000 AF of recharge during the current water year.
- Finished vegetation surveys at 146 SBKR monitoring plots across the Wash Plan Preserve and Mill Creek.



Dr. Milan Mitrovich showing SBKR habitat to FIRO team members on May 15



Clean, clear snowmelt being diverted through the new Mill Creek Diversion for recharge



The first recharge water entering Enhanced Recharge Basin C on June 4

San Bernardino Valley Water Conservation District

Monthly Recharge Report

From: 5/1/2024
To: 5/31/2024



	May				
	Avg Daily Recharge	Monthly Recharge	Recharge WYTD	10yr Avg Recharge*	BTAC Max**
Santa Ana River	48.0	1,488	23,960	14,913	71,250
Mill Creek	92.0	2,852	9,155	4,568	42,750
Plunge Creek	6.2	192.4	1,276	1,233	#N/A
State Water Project	0.0	-	16,740	7,093	#N/A
In River Channel Recharge***	37.3	1,156	5,669	#N/A	#N/A
Total	183	5,687	56,799	27,807	114,000

Values in Acre Feet

* Plunge Creek only has 3 years of available data

**BTAC Revised Max in December 2023

***Monitoring began in Mid-April 2011

**** All Values Based on Water Year Oct-Sep 2024

