

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, CA
Board of Directors Meeting
Agenda
April 15, 2013 at 1:30 p.m.

1. Call to Order, Flag Salute and Roll Call

2. Adoption and Adjustment of Agenda

3. Public Comment

Members of the public may address the Board at this time concerning items relating to any matter within the Agency's jurisdiction. To comment on specific agenda items, please complete a speaker's request form and hand it to the board secretary.

4. Consent Calendar:

If any board member requests that an item be removed from the Consent Calendar, it will be removed so that it may be acted upon separately.

- A. Approval of the Minutes of the Regular Board Meeting, April 1, 2013*
(Page 2)
- B. Approval of the Minutes of the Employee Guide Workshop, April 4, 2013*
(Page 5)
- C. Approval of the Minutes of the Engineering Workshop, April 8, 2013* (Page 7)

5. Reports (Discussion and Possible Action)

- A. General Manager's Report
 - 1. Operations Report
 - 2. General Agency Updates
- B. Directors' Reports

6. New Business (Discussion and Possible Action)

- A. Consideration of Resolution No. 2013-06, California Public Employee Retirement System for New Employees not previously with CALPERS (Page 9)
- B. Consideration of Resolution No. 2013-07, California Public Employee Retirement System for New Employees previously with CALPERS (Page 13)
- C. Consideration of Employee Policy Changes* (Page 14)
- D. Consideration of Resolution No. 2013-08, CEQA Guideline Changes* (Page 15)

7. Topics for Future Agendas

8. Announcements

- A. Finance and Budget Workshop, April 22, 2013 at 1:30 p.m.
- B. Regular Board Meeting, May 6, 2013 at 1:30 p.m.
- C. Engineering Workshop, May 13, 2013 at 1:30 p.m.

9. Adjournment

*Information included in Agenda Packet

(1) Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the Agency's office at 1210 Beaumont Avenue, Beaumont during normal business hours. (2) Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection at the Agency's office, located at 1210 Beaumont Avenue, Beaumont, California 92223, during regular business hours. When practical, these public records will also be made available on the Agency's Internet Web site, accessible at: www.sgpwa.com (3) Any person with a disability who requires accommodation in order to participate in this meeting should telephone the Agency (951 845-2577) at least 48 hours prior to the meeting in order to make a request for a disability, communication modification or accommodation.

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, California 92223
Minutes of the
Board of Directors Meeting
April 1, 2013

Directors Present: John Jeter, President
Bill Dickson, Vice President
Mary Ann Melleby, Treasurer
Ron Duncan, Director
Ted Haring, Director
Ray Morris, Director
Barbara Voigt, Director

Staff Present: Jeff Davis, General Manager
Thomas Todd, Finance Manager
Ken Falls, Operations and Maintenance Manager
Cheryle Rasmussen, Executive Assistant

1. **Call to Order, Flag Salute and Roll Call:** The meeting of the San Gorgonio Pass Water Agency Board of Directors was called to order by Board President John Jeter at 1:30 p.m., April 1, 2013 in the Agency Boardroom at 1210 Beaumont Avenue, Beaumont, California. Director Dickson led the Pledge of Allegiance to the flag. A quorum was present.
2. **Adoption and Adjustment of the Agenda:** The Agenda was adopted as presented.
3. **Public Comment:** No members of the public requested to speak at this time.
4. **Consent Calendar:**
 - A. Approval of the Minutes of the Regular Board Meeting, March 18, 2013
 - B. Approval of the Minutes of the Finance and Budget Workshop, March 25, 2013
 - C. Approval of the Finance and Budget Workshop Report, March 25, 2013

Director Melleby moved, seconded by Director Dickson to approve the consent calendar as presented. Motion passed unopposed.

5. Reports:

A. General Manager's Report:

1). **Operations Report:** General Manager Davis reported on the following: **(a) SWP Water Deliveries:** General Manager Davis stated that SWP water deliveries to BCVWD ponds and LSG ponds recommenced as of today, April 1st. The system was shut down for almost two months, due to maintenance and improvements of EBX II. **(b) SWP Water Allocations:** DWR announced that water allocations from the SWP have been reduced to 35% from 40% due to a record dry January, February and March. This reduction in allocation will not deter the Agency from delivering water at 16 cfs for the rest of this year. However, if the initial allocation for next year is low, the Agency may have to reduce deliveries starting in January 2014. **(c) Snowpack** is currently at 52% of normal for April 1st.

2). General Agency Updates: General Manager Davis updated the Board on the following items: **(a) Banning Centennial Earth Day Event:** **(1)** Flyers to the event were placed in each Board member's mailbox. **(2)** Barbara Hanna (Earth Day Event Coordinator) sent an email to the Agency stating that the Agency's sponsorship did not include the purchase of plants. **(3)** A groundwater model has been purchased for the event and is expected to be delivered by next week. **(4)** General Manager Davis will be present on Friday, April 12 to coordinate the materials for the booth. **(5)** Inland Empire Resource Conservation District staff will be available to help staff the Agency's booth on April 12th – 13th. **(b) Southern California Water Committee:** SCWC's quarterly lunch will take place on April 26th at Inland Empire Utilities Agency; the cost to attend the luncheon is \$70. **(c) Association of California Water Agencies:** ACWA's 2013 Spring Conference and Exhibition will take place in Sacramento from May 7 – 10. **(d) Legislative Report:** General Manager Davis stated that 2200 bills have been introduced this year. Fewer bills have been aimed at the water industry. **(e) Water, Transportation & Economic Development Summit (WTES):** This event was held on March 27th at Morongo Resort and Casino. General Manager Davis stated that he has received positive feedback pertaining to the water panel. **(f) Manager's Meeting:** A date for April's Managers meeting has not been scheduled, as a number of retail managers have yet to respond to the Agency's request.

B. Directors Report: **1.** Director Haring reported that he attended the WTES. He stated that there are a number of development projects slated for the city of Banning. **2.** Director Voigt reported that she attended the WTES and that she found it very interesting to hear that there are between 15 – 18 different countries investing in this area. **3.** Director Melleby reported that she attended the WTES and stated that General Manager Davis did a good job on the water panel. **4.** President Jeter reported that he attended the WTES and that he was impressed with the water panel. **5.** Director Duncan reported that he attended the WTES.

6. New Business:

A. Update on State Water Contractors Energy Issues: A PowerPoint presentation was included in the agenda packet. General Manager Davis provided the Board with a PowerPoint presentation on the Update on Renewable Energy for the State Water Contract. This presentation that was provided to the State Water Contractors on March 21, 2013. Items of interest are as follows:

- DWR's GHG Reduction Targets
- SWP Renewable Energy Procurement Plan
- DWR's 2012 RFP for Renewable Energy
- Response to DWR's 2012 RFP and Contract Negotiations
- Contract Executed as Result of DWR's 2012 RFP
- Project Location
- Next Step – RFP for Long-Term Renewable Energy

B. Bay Delta Conservation Plan: General Manager Davis provided the Board with a short educational video on the BDCP, which explained the need for this project and the concerning problems that the Delta faces now and in the future. Twenty-five million Californians depend on this water delivery infrastructure, including southern Californians.

C. Update on Contract Extension Negotiations: General Manager Davis provided the Board with a PowerPoint presentation on the following:

- Background – Contractors need an extension in contract beyond 2035
- The process of the negotiations
- DWR and Contractors priorities
- Formal Negotiations – To be held every other Wednesday in Sacramento
- Formal Negotiations – Goal is to complete formal negotiations by June 30, 2013
- Major Issues
- Next Steps
- General Issues

7. Topics for Future Agendas: No topics were requested for future agendas.

8. Announcements: President Jeter reviewed the following announcements:

- A. Employee Guide Workshop, April 4, 2013 at 1:30 p.m.
- B. Engineering Workshop, April 8, 2013 at 1:30 p.m.
- C. Regular Board Meeting, April 15, 2013 at 1:30 p.m.

9. Adjournment: President Jeter adjourned the meeting at 2:55 p.m.

DRAFT – SUBJECT TO BOARD APPROVAL

Jeffrey W. Davis, Secretary of the Board

0411

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue
Beaumont, California 92223
Minutes of the
Board Employee Guide Workshop
April 4, 2013

Directors Present: John Jeter, President
Bill Dickson, Vice President
Mary Ann Melleby, Treasurer
Ron Duncan, Director (left at 1:50 p.m.)
Ted Haring, Director
Ray Morris, Director
Barbara Voigt, Director

Staff and Consultants Present:
Jeff Davis, General Manager
Tom Todd, Jr., Finance Manager

1. **Call to Order, Flag Salute and Roll Call:** The Employee Guide workshop of the San Gorgonio Pass Water Agency Board of Directors was called to order by President John Jeter at 1:30 p.m., April 4, 2013, in the Agency Conference Room at 1210 Beaumont Avenue, Beaumont, California. President Jeter led the Pledge of Allegiance to the flag. A quorum was present.
2. **Adoption and Adjustment of Agenda:** By unanimous consent, Agenda Item 4b was moved to item 4a in order to accommodate Director Duncan's schedule.
3. **Public Comment:** There was no public comment at this time. No members of the public were present.
4. **New Business:**
President Jeter turned the meeting over to the Chair of the Employee Guide Committee.
 - A. **Discussion of Possible Life Insurance Option for Employees.** A summary table of various options and costs was included in the agenda package. General Manager Davis indicated that staff was bringing more information on this issue to the Board at the Board's request. Finance Manager Todd then reviewed the summary table with the Board. General Manager Davis indicated that the Board had three choices—do nothing, allow employees to purchase life insurance through a payroll deduction at their expense, or cause the Agency to subsidize life insurance premiums for staff. After discussion, the Board asked staff to develop an alternative that includes the Agency paying for life insurance premiums up to 25% of an employee's salary, with the employee picking up any additional costs for the insurance premium. A goal of July 1 was set to

implement such a program. Staff was directed to bring full cost information back to the Board for consideration and possible approval.

B. Discussion of Proposed Changes to Employee Manual. Finance Manager Todd reviewed two proposed Employee Manual changes with the Board. The first was a change in the overtime provision, in order to be consistent with State law. The second was related to the resolution the Board recently passed regarding the employee share of PERS to be paid by new employees not previously members of PERS. It was the consensus of the Board that the proposed changes were acceptable; staff was directed to bring these changes to the Board for final approval.

C. Discussion of Retirement Resolution for New Hire Who is a Member of CalPERS. General Manager Davis reminded the Board that, even though the new pension law dictates the employee share of PERS for new employees (7%), and the Board has defined a 3% contribution by current employees, the employee share of PERS to be paid by new employees who have previously been in PERS is not defined. He explained that the Board has a number of options, including setting the amount at the same rate as current employees, at the same rate as future employees, or some other rate. After discussion, it was the consensus of the Board that any future rank and file employees who are hired from a PERS contracting agency should pay 7% of their salary into PERS, while the amount for any future General Manager should be negotiable. The Board directed staff to come back to the Board with a policy that implements this for consideration.

5. Announcements: The following announcements were reviewed:

- A. Engineering Workshop, April 8, 2013 at 1:30 pm.
- B. Regular Board Meeting, April 15, 2013 at 1:30 p.m.
- C. Finance and Budget workshop April 22, 2013 at 1:30 p.m.

6. Adjournment: The Employee Guide workshop of the San Geronio Pass Water Agency Board of Directors was adjourned at 2:03 p.m.

Draft - Not Approved

Jeffrey W. Davis, Secretary of the Board

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, CA 92223
Minutes of the
Board of Directors Engineering Workshop
April 8, 2013

Directors Present: John Jeter, President
Bill Dickson, Vice President
Ron Duncan, Director
Mary Ann Melleby, Director
Ray Morris, Director
Barbara Voigt, Director

Directors Absent: Ted Haring, Director

Staff Present: Jeff Davis, General Manager
Ken Falls, Operations and Maintenance Manager

1. Call to Order, Flag Salute and Roll Call: The Engineering workshop of the San Gorgonio Pass Water Agency Board of Directors was called to order by President John Jeter at 1:30 p.m., April 8, 2013 in the Agency conference room at 1210 Beaumont Avenue, Beaumont, California. President Jeter led the Pledge of Allegiance to the flag. A quorum was present.

2. Public Comment: There was no public comment at this time. President Jeter turned the meeting over to Bill Dickson, Chairman of the Engineering Committee.

3. Status Report on Design of Beaumont Avenue Recharge Facility Project. General Manager Davis gave a brief summary of the status of the project and then introduced Joseph Caldwell, an engineer from Albert A. Webb & Associates, who is performing the design of the recharge facility. General Manager Davis indicated that there were a few design issues that Mr. Caldwell needs input on from the Board in order to complete the design of the facility. Mr. Caldwell handed out a package of drawings and other documents to review with the Board. He began by reporting on a meeting between himself, General Manager Davis, the Tahiti Group, and the City of Beaumont, where the boundary between the Agency's property and Tahiti's property was discussed in relation to a future City street. He reported that the Tahiti Group has asked that the Agency dedicate a small parcel of land in the southwest corner of the property for use as a cul de sac for its future development. He explained that there are two options—a regular cul de sac and an offset cul de sac. The offset cul de sac would require dedication of approximately 0.2 acres, while the regular cul de sac would involve a dedication of approximately 0.03 acres. It was the consensus of the Board that the General Manager negotiate the best possible deal with the City and the Tahiti Group and to bring that deal back to the Board for approval. The Board also expressed that it did not want to pay for any improvements to the property, for example grading for the 7 / 2 1 c. Mr. Caldwell then discussed the

potential for scour of Noble Creek and the damage that it could do to the facility, noting that it would be relatively easy for the Agency to fix any scour issues later on in order to minimize capital costs. The Board agreed that no current action should be taken to minimize scour during the design phase. General Manager Davis and Mr. Caldwell then discussed the possibility of some of the recharge water potentially damaging future homes in the Tahiti Group development, and asked the Board if it wished to perform a study to determine if this would be a problem. General Manager Davis indicated that the USGS had indicated that on a macro scale there shouldn't be any problems. Mr. Caldwell noted that the Agency's geotechnical consultant at the time of the property purchase has requested that he overexcavate to a depth of approximately 17 feet in the southeast portion of the property and compact the soil to 95%, and that such action would minimize the potential for damage to homes. The Board requested that Mr. Caldwell determine the approximately elevation of the new homes to be constructed and to report back to the Board, indicating that they wanted this information prior to making a final decision. Mr. Caldwell then brought up the issue of fencing around the facility. The Board indicated that it desires security fencing around the entire perimeter, with a more attractive fenceline along Beaumont Avenue. The requested that Mr. Caldwell look at V-mesh fencing in addition to the types he reported on. It was agreed that he will bring more information back to the Board later. General Manager Davis brought up the subject of landscaping, indicating that currently there are no plans to install power or water on the site. It was the consensus of the Board that landscaping should be included in harmony with the surrounding neighborhood, even if this means installing an irrigation system. General Manager Davis indicated that he would look into this and bring the issue back to the Board. He also indicated that the landscaping could be installed after completion of the facility, so there is no hurry on this issue. There were no other issues discussed.

4. Announcements:

- A. Water Conservation and Education Workshop, Tuesday, March 12 at 1:30 p.m.
- B. Regular Board Meeting March 18, 2013 at 1:30 p.m.
- C. Finance and Budget Workshop, March 25, 2013
- D. Regular Board Meeting, April 1, 2013 at 1:30 p.m.
- E. General Manager Davis announced that, due to a leak in a valve structure at Greenspot Pump Station the East Branch Extension had been shut down since last Wednesday, but as of this morning it was back on line.

5. Adjournment: Chairman Dickson adjourned the meeting at 2:28 p.m. at Crafton Hills Reservoir.

DRAFT – SUBJECT TO BOARD APPROVAL

Jeffrey W. Davis, Secretary to the Board

MEMORANDUM

TO: Board of Directors
FROM: General Manager
RE: Employee-Paid PERS Contributions
DATE: April 15, 2013

Summary:

This staff report covers two resolutions in the Board agenda package—Resolution 2013-06 and Resolution 2013-07. These resolutions are similar but not identical and are required because of recent changes to state pension law.

Resolution 2013-06 is intended to take the place of Resolution 2013-05, which the Board passed last month. Resolution 2013-05 is correct as written but was intended to rescind Resolution 2012-09; however it did not rescind it. Resolution 2013-06 corrects this omission. This resolution is required by the Public Employee Pension Reform Act of 2013 and covers new employees hired after January 1, 2013 who are also new to CalPERS.

Resolution 2013-07 is the result of discussion at the April 4 Employee Guide workshop and covers new employees hired after January 1, 2013 who have previously been PERS members (known as “classic” PERS employees).

Background:

At the April 4 Employee Guide workshop, the Board made a decision as to employee-paid PERS contributions for future employees who are “classic” PERS employees. The purpose of this proposed Board action is to formalize that decision.

The Public Employee Pension Reform Act of 2013 set new rules for employee contributions to the CalPERS pension system. The law set defined rules for new employees who have not previously been PERS members (“classic” PERS employees), but not for new

employees who are PERS members or who have been within the preceding six months. The law gives discretion to elected bodies on how to treat these employees. The purpose of this resolution is to exercise the Board's discretion in defining the employee contribution for this class of employee.

Detailed Report:

At the Employee Guide workshop, the Board decided that future hires who are classic PERS employees shall pay 7% of their gross salary into PERS, the same as for future hires who have not previously been in PERS. The one exception to this is for the General Manager. For future hires for this position, if the candidate is a classic PERS member, the Board will negotiate an employee-paid PERS contribution.

In effect, there are now, or will be in the future, four classifications of Agency employees:

- Current employees (as of January 1, 2013).
- New employees hired after January 1, 2013 who have not previously been PERS members or who have been out of PERS for at least six months.
- New rank and file employees hired after January 1, 2013 who are classic PERS employees (rank and file meaning all employees except the General Manager).
- New General Managers hired after January 1, 2013 who are classic PERS employees.

Resolution 2013-06 covers employees in the second bullet above.

Resolution 2013-07 covers the third and fourth bullets above.

Resolution 2012-08, passed last year, covers employees in the first bullet above.

The difference between Resolution 2013-06 and Resolution 2013-05, passed last month, is that Resolution 2013-06 rescinds both Resolution 2012-09, which is now inconsistent with the new pension law, and Resolution 2013-05, passed last month. The original Resolution 2013-05 should have explicitly stated that it rescinded Resolution 2012-08.

Fiscal Impact:

The long-term fiscal impact of this action will be to limit future PERS liability for the Agency, thus reducing future long-term PERS payments. It will have no impact whatsoever until the Agency hires a new employee.

Relationship to Strategic Plan:

This action is strictly related to a human resources issue, and thus is not directly related to the Strategic Plan, but is intended to set a Board policy that is consistent with State law and that enables the Agency to be competitive in hiring future employees.

Recommendation:

Staff recommends that the Board approve Resolutions 2013-06 and 2013-07.

RESOLUTION NO. 2013-06

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS
WATER AGENCY SETTING THE RATE FOR EMPLOYER PAID MEMBER
CONTRIBUTIONS TOWARD RETIREMENT FOR NEW EMPLOYEES**

WHEREAS, the Board of Directors of the San Gorgonio Pass Water Agency has the authority to implement Government Code Section 20691;

WHEREAS, the Board of Directors of the San Gorgonio Pass Water Agency has a written labor policy which establishes the amount the Agency will pay for member contributions to the California Public Employees Retirement System (CalPERS) for the purposes of retirement;

WHEREAS, the Public Employees' Pension Reform Act of 2013 states that an employer shall not pay member contributions for new members.

WHEREAS, the Public Employees' Pension Reform Act of 2013 also states that the maximum amount an employee shall contribute is 7% of his or her salary;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Gorgonio Pass Water Agency hereby sets the retirement contribution rate of new members at 7% of his or her gross salary.

BE IT FURTHER RESOLVED that this contribution rate is effective as of January 1, 2013.

BE IT FURTHER RESOLVED that Resolutions 2012-09 and 2013-05 are hereby rescinded.

BE IT FURTHER RESOLVED that Agency Staff is hereby directed to make any changes required in the Agency's Employee Guide Manual to implement this Resolution.

BY

John Jeter
President, Board of Directors

Dated

RESOLUTION NO. 2013-07

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS
WATER AGENCY SETTING THE RATE FOR EMPLOYER PAID MEMBER
CONTRIBUTIONS TOWARD RETIREMENT FOR NEW EMPLOYEES WHO ARE
CLASSIC PERS MEMBERS**

WHEREAS, the Board of Directors of the San Gorgonio Pass Water Agency has the authority to implement Government Code Section 20691;

WHEREAS, the Board of Directors of the San Gorgonio Pass Water Agency has a written labor policy which establishes the amount the Agency will pay for member contributions to the California Public Employees Retirement System (CalPERS) for the purposes of retirement;

WHEREAS, the Public Employees' Pension Reform Act of 2013 allows elected bodies to exercise their discretion over the maximum employer paid contributions for future employees who are classified as PERS Classic employees; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Gorgonio Pass Water Agency hereby sets the retirement contribution rate for new rank and file employees who are classic PERS members at 7% of their gross salary.

BE IT FURTHER RESOLVED that the Board will negotiate the employee paid share of PERS contributions for future candidates for General Manager who are classic PERS members.

BE IT FURTHER RESOLVED that this resolution is effective as of April 15, 2013.

BE IT FURTHER RESOLVED that Agency Staff is hereby directed to make any changes required in the Agency's Employee Guide Manual to implement this Resolution.

BY

John Jeter
President, Board of Directors

Dated

Proposed changes to Employee manual, April 15, 2013

Paragraph 1.11, Overtime

All non-exempt employees shall be paid overtime according to the laws of the State of California. The basic provisions from the Division of Labor Standards Enforcement state that any non-exempt employee who works more than 8 hours in one day, up to and including 12 hours in one day, shall be paid at 1½ times the regular rate of pay. A non-exempt employee who works more than 40 hours in a workweek shall be paid at 1½ times the regular rate of pay. A non-exempt employee who works in excess of 12 hours in one day shall be paid double the regular rate of pay. The workweek for the purpose of overtime calculation will be determined by separate policy. Overtime will be computed on actual hours worked, adjusted to the next highest increment of 15 minutes. Hours worked on a holiday shall be paid at 1½ the regular rate of pay. For the purpose of making paid leave time and retirement calculations, hours worked on a holiday shall be considered as straight time worked.

Paragraph 3.13, Retirement

All regular employees will be enrolled in the Public Employees Retirement System (CalPERS), pursuant to the rules determined by CalPERS. For the purposes of retirement, the Agency has two groups of employees, those who were hired before January 1, 2013, and those hired after January 1, 2013. For employees hired before January 1, 2013, the current contribution rate as set by the Board of Directors will apply. Employees hired after January 1, 2013 are further divided into three categories: a general manager who is member of CalPERS, rank and file employees who are members of CalPERS, and employees who are new members of CalPERS. New members are defined by the Pension Reform Act of 2013, as employees that are: 1. new members of CalPERS; 2. were members of another public retirement system but who were not subject to reciprocity under subdivision (c) of Section 7522.02; or 3. were active members in a retirement system but have had a break in service of more than six months. For a general manager hired after January 1, 2013 who is a member of CalPERS, the Board has reserved the right to negotiate the rate of the employee-paid contribution toward retirement. For rank and file employees who are members of CalPERS and for all new members who are hired after January 1, 2013, the employee-paid contribution rate will be 7% of their gross salary. The Agency participates in Social Security and in Medicare.

MEMORANDUM

TO: Board of Directors

FROM: General Manager

RE: Revisions to CEQA Guidelines

DATE: April 15, 2013

Summary:

In December, the Board adopted Resolution 2012-15, adopting new CEQA Guidelines for the Agency. Proposed CEQA guidelines are presented each year by the General Counsel and include updates to State laws, administrative decisions, etc. The purpose of this proposed Board action is to adopt the 2013 revisions to the Agency's local CEQA guidelines as recommended by the General Counsel.

Background:

Each year, the State legislature passes new laws that impact how the California Environmental Quality Act should be implemented. Thus, public agencies throughout the State need to revise their own local guidelines to implementation of CEQA to reflect the new laws, plus any new court decisions or other administrative actions that would impact implementation of CEQA. Best Best & Krieger has presented the Agency with its recommended 2013 revisions to local CEQA guidelines. These recommended revisions are relatively minor and should have little or no impact in how the Agency implements CEQA. However, adoption of the revised guidelines is important, as it demonstrates that the Agency intends to fully implement CEQA for all actions that require it.

Detailed Report:

This year's revisions are summarized in the attached memorandum from Best Best & Krieger. They are relatively minor. They include some changes in definitions, and revisions regarding infill projects, pipelines within public rights of way, and roadway improvements. In addition, some counties throughout the State have revised their filing fees for CEQA documents. The proposed guidelines cover all of

these changes. The entire guidelines document is not included in the Board package; only a summary of the revisions is included. The entire guidelines document was included in the December 17, 2012 agenda package.

Fiscal Impact:

There is no fiscal impact to adoption of the revised guidelines

Recommendation:

Staff recommends that the Board adopt Resolution 2013-08, adopting the revised local CEQA guidelines for 2013.

RESOLUTION NO. 2013-08

A RESOLUTION OF THE SAN GORGONIO PASS WATER AGENCY AMENDING AND ADOPTING LOCAL GUIDELINES FOR IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (PUB. RESOURCES CODE §§ 21000 ET SEQ.)

WHEREAS, the California Legislature has amended the California Environmental Quality Act (“CEQA”) (Pub. Resources Code §§ 21000 et seq.), the Natural Resources Agency has amended portions of the State CEQA Guidelines (Cal. Code Regs, tit. 14, §§ 15000 et seq.), and the California courts have interpreted specific provisions of CEQA and the State CEQA Guidelines; and

WHEREAS, Section 21082 of the Public Resources Code requires all public agencies to adopt objectives, criteria and procedures for the evaluation of public and private projects undertaken or approved by such public agencies, and the preparation, if required, of environmental impact reports and negative declarations in connection with that evaluation; and

WHEREAS, the San Gorgonio Pass Water Agency (“Agency”) must revise its local guidelines for implementing CEQA to make them consistent with the current provisions and interpretations of CEQA and the State CEQA Guidelines.

NOW, THEREFORE, the Agency hereby resolves as follows:

SECTION 1. The Agency adopts “Local Guidelines for Implementing the California Environmental Quality Act (2013 Revision),” a copy of which is on file at the offices of the Agency and is available for inspection by the public.

SECTION 2. All prior actions of the Agency enacting earlier guidelines are hereby repealed.

ADOPTED this 15th day of April, 2013.

President, Board of Directors
San Gorgonio Pass Water Agency

ATTEST:

Secretary, Board of Directors
San Gorgonio Pass Water Agency

Memorandum

TO: Public Agency Clients (Authority)
FROM: Best Best & Krieger LLP
DATE: March 7, 2013
RE: 2013 Summary of Changes to Local CEQA Guidelines

Important changes in the law have been incorporated into the 2013 Update to your Local Guidelines for Implementing the California Environmental Quality Act ("Local Guidelines"). For easy reproduction and access to these Local Guidelines, as well as the California Environmental Quality Act ("CEQA") forms your Authority will need, and other important legal alerts, please access BBK's CEQA client portal at www.bbklaw.net/CEQA. For technical support please contact Gar House at Gar.House@bbklaw.com.

Public agencies are required to adopt implementing procedures for administering their responsibilities under CEQA. These procedures include provisions governing how the Authority will process environmental documents and provide for adequate comment, time periods for review, and lists of permits that are ministerial actions and projects that are considered categorically exempt. Authority procedures should be updated within 120 days after the State CEQA Guidelines are revised.

This memorandum summarizes the substantive amendments to your Local Guidelines made in response to regulations, legislation and legal cases that changed or impacted certain aspects of CEQA between January 2012 and February 2013. Your Local Guidelines and this memorandum are designed to assist in assessing the environmental implications of a project prior to its approval, as mandated by CEQA. We still recommend, however, that you consult with an attorney when you have specific questions on major, controversial or unusual projects or activities.

Revisions to Local CEQA Guidelines.

1. SECTION 3.11 PIPELINES WITHIN A PUBLIC RIGHT-OF-WAY

Pursuant to AB 2564, Public Resources Code section 21080.21, which exempts certain pipeline projects from the requirements of CEQA, is amended to exempt both subsurface and surface facilities, accessories, or appurtenances to a pipeline. Previously, the exemption applied only to subsurface pipeline facilities and subsurface pipelines. Therefore, this section of the Local Guidelines has been amended to reflect that surface facilities, accessories, and appurtenances to a pipeline are now also exempt. Please note that surface pipelines, themselves, are not included in the exemption.

2. SECTION 3.16 ROADWAY IMPROVEMENTS

This section was added in response to AB 890, which adds section 21080.37 to the Public Resources Code. The newly added Public Resources Code section 21080.37 exempts certain

roadway improvement projects involving the repair, maintenance, or minor alteration of an existing roadway from the requirements of the California Environmental Quality Act (“CEQA”) until January 1, 2016. “Roadway” is defined in Section 10.61 of the Local Guidelines.

These projects must meet certain requirements for the exemption to apply, as set forth in this section of the Local Guidelines, including: the project must be carried out by a city or county for the purpose of improving public safety; the city or county must have a population of 100,000 persons or less; the roadway must not be a state roadway; the project must not cross a waterway or involve riparian or wetland habitat; and the project also must not impact cultural or scenic resources.

Further, in order for the exemption in Public Resources Code, section 21080.37 to apply, the public agency approving or carrying out the project must hold a noticed public hearing to receive comments on the project, and must file notice of the exemption with the Office of Planning and Research and the county clerk. This public hearing requirement is unique to this new exemption.

3. SECTION 3.17 CERTAIN INFILL PROJECTS

This new section is in response to SB 226, which adds section 15183.3 to the State CEQA Guidelines and is intended to expedite the environmental review process for infill projects that provide environmental benefits. The environmental effects of such projects will not require additional review if (1) the effects were addressed as significant in a prior environmental impact report for a planning level decision, unless a listed exception applies, or (2) even if the effects were not analyzed in the prior environmental impact report or are more significant than previously analyzed, further analysis will not be required if uniformly applicable development policies or standards apply to the infill project and would substantially mitigate the effects. Depending on the extent to which the effects are covered by a prior environmental impact report and the availability of applicable policies or standards, streamlining for eligible infill projects will range from complete exemption to more narrow, project-specific environmental review.

To be eligible, an infill project must be located on an urban site that has been developed or is surrounded at least seventy-five percent by immediately adjacent urban uses, or is separated from such urban uses by a public right-of-way. The project must also satisfy certain statewide performance standards and must be consistent with the policies of an applicable sustainable communities strategy or alternative planning strategy. In addition, the project must meet the development standards set forth in new State CEQA Guidelines Appendix M (Local CEQA Guidelines Form R). To determine whether the project meets the requirements for this streamlined review, the lead agency must utilize yet another checklist, which is found in new State CEQA Guidelines Appendix N (Local CEQA Guidelines Form S).

Where the lead agency determines the infill project will not cause any new specific effects or more significant effects, or uniformly applicable policies or standards will mitigate such effects, the project is exempt from CEQA review and a Notice of Exemption should be filed.

4. SECTION 3.18 OTHER SPECIFIC CEQA EXEMPTIONS

This section has been amended to reflect the addition of an exemption for street restriping projects for the purpose of adding bicycle lanes. AB 2245 adds section 21080.20.5 of the Public Resources Code to exempt from CEQA the restriping of streets in urbanized areas for bicycle lanes. To qualify for this exemption, the project must be consistent with a bicycle transportation plan prepared pursuant to section 891.2 of the Streets and Highways Code. Additionally, lead agencies must prepare an assessment of traffic and safety impacts, and include as part of the project measures to mitigate potential vehicular, bicycle and pedestrian impacts.

5. SECTION 10 DEFINITIONS

A. Section 10.52. "Pipeline"

The definition of "Pipeline" is changed pursuant to AB 2564 to include subsurface pipelines and subsurface and surface accessories or appurtenances to the pipeline. Previously, surface accessories and appurtenances were not included in the definition. Surface pipelines are still not included.

B. Section 10.60. "Riparian Areas"

Projects that fall within the Roadway Improvements exemption of Section 3.16 of the Local Guidelines are not exempt if they contain "Riparian Areas" as defined by this new definition. These areas include, among other things, those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota.

C. Section 10.61. "Roadway"

The definition of a "Roadway" has been added due to AB 890 regarding the exemption from CEQA of certain roadway improvements. For purposes of this exemption, expressed Section 3.16 of the Local Guidelines, "Roadway" means a roadway as defined by the Vehicle Code and the previously graded and maintained shoulder within the roadway right-of-way. The repair, maintenance, or minor alteration of a "roadway," as so defined, is exempt.

D. Section 10.63. "Significant value as wildlife habitat"

Projects that fall within the Roadway Improvements exemption of new Section 3.16 of the Local Guidelines are not exempt if the project site has "significant value as wildlife habitat" as defined by this new definition. This includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act; habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

E. Section 10.79. "Waterway"

Roadway Improvement Projects that would otherwise be covered by the exemption found

in Section 3.16 of the Local Guidelines are not exempt if the project site crosses a “waterway” as defined by this new definition. A waterway is a bay, estuary, lake, pond, river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-marine shoreline.

Other Changes.

Department of Fish and Wildlife. Effective January 1, 2013, the Department of Fish and Game has changed its name to the Department of Fish and Wildlife. Therefore, all references in the Local Guidelines have been changed to “Department of Fish and Wildlife” or “DFW.”

Conclusion.

As always, CEQA remains complicated and, at times, challenging to apply. The only constant in this area of law is how quickly the rules change. Should you have any questions about any of the provisions discussed above, or about the environmental review of any of your Authority’s projects, please contact a BB&K attorney for assistance.

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