

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, CA
Board of Directors Meeting
Agenda
July 17, 2017 at 7:00 p.m.

- 1. Call to Order, Flag Salute, Invocation 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. Reports:**
 - A. General Manager's Report
 1. Operations Report
 2. General Agency Updates
 - B. General Counsel Report
 - C. Directors' Reports
- 5. New Business:**
 - A. Consideration of Resolution 2017-12 Setting the Appropriation Limit for Fiscal Year 2017-2018* (p. 3)
 - B. Consideration and Possible Action to Approve Amendment No. 3 to the Employment Agreement of the General Manager* (p. 6)
 - C. Discussion of Potential Funding Mechanisms for Water Acquired from Antelope Valley East Kern Water Agency* (p. 9)
- 6. Topics for Future Agendas**
- 7. Announcements:**
 - A. Finance and Budget Workshop, July 24, 2017 at 4:00 p.m.
 - B. San Gorgonio Pass Regional Water Alliance, July 26, 2017
 1. Regular Meeting at 5:30 p.m. – Banning City Hall
 - C. Regular Board Meeting, August 7, 2017 at 7:00 p.m.
- 8. Closed Session (3 Items)**
 - A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957
Title: General Counsel
 - B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code section 54956.8
Property: Potential water rights/supplies offers from the South Mesa Water Company
Agency negotiator: Jeff Davis, General Manager
Negotiating parties: David Armstrong, General Manager, South Mesa Water Company
Under negotiation: price and terms of payment

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code section 54956.8

Property: Potential water rights acquisition regarding Westlake Farms,
Kings County APN's 036-070-007-000, 036-070-014-000, 036-070-004-000,
036-070-013-000

Agency negotiator: Jeff Davis, General Manager

Negotiating parties: Ceil Howe

Under negotiation: Price and terms of payment

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-related modification or accommodation.

MEMORANDUM

TO: Board of Directors

FROM: General Manager

RE: Appropriations Limit for FY 2017-2018

DATE: July 17, 2017

Detailed Report:

Each year, the Agency, along with all other public agencies in California, is required by the California Constitution to set an appropriations limit. The limit is calculated based on a formula, and is not related to the Agency's budget for the year. For this fiscal year, the formula amount is \$58,200,998. The Agency's debt service and general fund budgets combined will be just over half this amount—in the vicinity of \$32 million.

The attached resolution is a routine action that the Board is required to take each year. By law, the appropriations limit must be posted in a public place for at least 15 days prior to the Board adopting the resolution. The information has been posted for more than 15 days on the bulletin board outside the administration building, clearly visible to the public.

Recommendation:

Staff recommends that the Board adopt Resolution 2017-12 in accordance with California law.

RESOLUTION NO. 2017-12

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SAN GORGONIO PASS WATER AGENCY ESTABLISHING THE
APPROPRIATIONS LIMIT FOR FISCAL YEAR 2017-2018**

WHEREAS, Article XIII B of the California Constitution places an annual limitation upon appropriations from proceeds of taxes by each local government of the State of California; and

WHEREAS, Section 7910 of the California Government Code implements Article XIII B of the California Constitution by requiring each local jurisdiction to establish, by resolution, its appropriations limit for each fiscal year, and to make the documentation used in determining the appropriations limit available to the public fifteen days prior to adoption of the resolution establishing the appropriations limit; and

WHEREAS, The San Gorgonio Pass Water Agency has documented its calculations of the Agency's appropriations limit for Fiscal Year 2017-18, and notice of said calculations has been posted on the Agency's outside Bulletin Board (said notice being visible from the public walkway in front of the Agency's building) and the calculations have been made available to the public at least fifteen days prior to the adoption of this resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the San Gorgonio Pass Water Agency as follows:

1. The appropriation limit applicable to this Agency pursuant to Article XIII B of the California Constitution for Fiscal Year 2017-18 is hereby established and determined to be in the sum of \$58,200,998.
2. A copy of the documentation used in the determination of the Fiscal Year 2017-18 appropriations limit shall be affixed hereto and shall be available for public inspection.
3. Pursuant to Section 7910 of the California Government Code, any judicial action or proceeding to attach, review, set aside, void or annul the establishment of the Fiscal Year 2017-18 appropriations limit as set forth herein must be commenced within forty-five days of the adoption of this resolution.

Resolution No. 2017-12 was adopted by the following roll call vote:

Ayes:
Noes:
Abstain:
Absent:

I hereby certify that the foregoing is a true and correct copy of Resolution No. 2017-12 adopted by the Board of Directors of San Gorgonio Pass Water Agency at its meeting on July 17, 2017.

Jeffrey W. Davis, Secretary to the Board



**SAN GORGONIO PASS WATER AGENCY
 APPROPRIATIONS LIMIT
 FISCAL YEAR 2017-18**

FY 2016-17 APPROPRIATIONS LIMIT			55,656,726
	<u>Percent</u>	<u>Ratio</u>	
FY 2017-2018 ADJUSTMENT FOR PERCENTAGE CHANGES IN:			
CALIFORNIA PER CAPITA PERSONAL INCOME	3.69	1.0369	
POPULATION PERCENT CHANGE 2016 - 2017	0.85	1.0085	
PERCENT CHANGE AS A FACTOR			<u>104.5714%</u>
FY 2017-2018 APPROPRIATIONS LIMIT			<u><u>58,200,998</u></u>

THE ABOVE APPROPRIATION LIMITS WERE CALCULATED IN ACCORDANCE WITH PROPOSITION III WHICH AMENDED ARTICLE XIII B OF THE CALIFORNIA CONSTITUTION.

Posted 6-27-17

MEMORANDUM

TO: Board of Directors

FROM: General Counsel

RE: Consideration and possible action to approve Third Amendment to General Manager/Chief Engineer Employment Agreement

DATE: July 17, 2017

Summary:

Based on the direction provided by the Board from the recent performance evaluation, the Board would like to consider adoption of the attached Third Amendment To Employment Agreement – General Manager/Chief Engineer (“Third Amendment”). The Employment Agreement, as well as the First and Second Amendments, are also attached.

Under the First Amendment, the term of employment is currently from July 1, 2015 through June 30, 2018. The Third Amendment would provide for the extension of the term for an additional 3 years, which would make the Employment Agreement effective July 1, 2017 through June 30, 2020.

The Third Amendment would also provide for an increase in salary to reflect a seven percent (7%) adjustment as of July 1, 2017 and a three percent (3%) adjustment on July 1, 2018. As a result, effective July 1, 2017, the salary would be \$190,205.34 per year and effective July 1, 2018, the salary would be \$195,911.50 per year. Taking into account the term of the Employment Agreement, which is based on July 1 of each year, the first adjustment would be retroactive to July 1, 2017.

Recommendation:

It is recommended that the Board take action to approve the Third Amendment to the Employment Agreement.

**SAN GORGONIO PASS WATER AGENCY: THIRD AMENDMENT TO
EMPLOYMENT AGREEMENT – GENERAL MANAGER/ CHIEF ENGINEER**

This Third Amendment to Employment Agreement (this “Third Amendment”) between the SAN GORGONIO PASS WATER AGENCY (the “Pass Agency”) and JEFFREY W. DAVIS (the “General Manager/ Chief Engineer”), is entered into this 17th day of July, 2017. Except as modified in this Third Amendment, and the preceding First and Second Amendments, the Employment Agreement, first dated July 28, 2014, between the Agency and the Employee shall remain in full force and effect. The parties to this Third Amendment agree to the following changes:

The Introduction is hereby amended as follows:

“This Employment Agreement is effective July 1, 2017 through June 30, 2020 between the SAN GORGONIO PASS WATER AGENCY (the “Pass Agency”) and JEFFREY W. DAVIS (the “General Manager/ Chief Engineer”).”

Section 4 entitled “TERM OF EMPLOYMENT” is hereby amended as follows:

“4. TERM OF EMPLOYMENT.

“4.1 General Manager/ Chief Engineer shall be employed for a term of three (3) years commencing July 1, 2017. In the event Pass Agency elects to terminate this Employment Agreement prior to the end of its term, it shall give the General Manager/ Chief Engineer one hundred eighty (180) days written notice prior to the effective date of termination. Upon notice of termination by the Pass Agency, the General Manager/Chief Engineer shall continue to perform his duties and receive his compensation and benefits as provided hereunder until the effective date of the termination or until he obtains other employment, whichever occurs first. At the option of the Board of Directors, the duties of the General Manager/ Chief Engineer may be modified or reduced during the period between the notice of termination and the effective date of termination, provided that compensation and benefits will continue at the levels provided herein.

“Notwithstanding the foregoing, Pass Agency may terminate this Employment Agreement with no or less prior notice. In such case, the General Manager/ Chief Engineer shall be entitled to the following severance in accordance with the terms of California Government Code sections 53260, et seq.: An amount equal to one hundred and eighty (180) days of the Employee’s then base salary or the remainder of the term of this Agreement, whichever is less. The Pass Agency shall pay premiums for medical, dental, and vision insurance for the balance of the one hundred and eighty (180) days, to the extent the Pass Agency provides less-than such notice prior to termination. In the event that the General Manager/ Chief Engineer elects to terminate this Employment Agreement, he shall give the Board of Directors at least forty five (45) days written notice of his intention to do so.“...”

Section 6 entitled "SALARY" is hereby amended to reflect a seven percent (7%) adjustment on July 1, 2017 and a three percent (3%) on July 1, 2018, as follows:

"6. **SALARY.** Effective July 1, 2017, the gross salary shall be One Hundred and Ninety Thousand, Two Hundred and Five Dollars and Thirty Four Cents (\$190,205.34) per year. Effective July 1, 2018, the gross salary shall be One Hundred and Ninety Five Thousand, Nine Hundred and Eleven Dollars and Fifty Cents (\$195,911.50) per year. Additional increases during the term of this Agreement must be expressly approved by the Board and memorialized by subsequent written amendment to this Agreement."

The Pass Agency and the General Manager/ Chief Engineer have duly executed this Third Amendment to Employment Agreement as of the date first written above.

SAN GORGONIO PASS WATER AGENCY

By: _____
DAVID FENN,
President, Board of Directors

JEFFREY W. DAVIS

MEMORANDUM

TO: Board of Directors

FROM: General Manager

RE: Funding of Nickel Water Acquisition

DATE: July 17, 2017

Summary:

During the discussion surrounding the acquisition of Nickel water, the Board made it clear that a funding mechanism would be needed and that it should be decided upon soon. The purpose of this agenda item is for the Board to get input from stakeholders, including staff and retail water agencies, and to discuss possible funding mechanisms for the water. A consultant will be present to help the General Manager present some information related to the cost of the Nickel water, as well as the cost of the Agency's Table A water.

Detailed Report:

Last year, the Board directed staff to contract with Provost & Pritchard to perform a study identifying potential opportunities for the Agency to acquire additional water supplies. Upon completion of that study, and a presentation to the Board, the Board authorized staff to pursue multiple opportunities to acquire such supplies, and staff has actively been engaged in doing so.

Last month, the Board approved the first new supply of long-term water supplies, a 20-year lease of "Nickel" water from the Antelope Valley-East Kern Water Agency. Upon approval of the agreement finalizing this deal, the Board directed staff to set up a workshop in order for the Board to discuss potential funding mechanisms for this water.

Staff has been in contact with other owners of water and water rights, and discussed other potential opportunities for the Agency, and based on these conversations, staff feels comfortable that the fixed cost of the Nickel water is representative of the water market as a

whole—in other words, other deals yet to come will likely have similar fixed costs. It is unlikely that the Agency will find an opportunity to acquire long-term water supplies at a price significantly lower than the Nickel water. Sites Reservoir is an example of an opportunity in which the projected cost of the water, \$600-\$800 per AF, could be less, but it remains to be seen if this is a realistic projection.

While State Water Project Table A supplies are and will remain an important part of the Agency's water supply portfolio, the Board should be cognizant that Table A water has been challenged in court in Southern California as a basis for water supply assessments, and could be again. Because of this, it is critical to the future of the region that the Board continue to seek out and procure additional water supplies, including long-term supplies, outside of the State Water Project, such as the Nickel water. A twenty year supply is considered a long-term supply.

Staff continues to seek out such supplies, and also continues to seek additional Table A supplies. At this point in time, staff is actively ——— involved in discussions for six separate transactions. These include various “types” of water such as additional Table A water, “surplus” Table A water, pre-1914 water rights water both north and south of the Delta, and other water that is available in 2017 due to the nature of the wet year.

The Board has made it clear in the past that its view is that growth should pay for its fair share of additional water supplies and infrastructure. With that in mind, the Board should consider the Nickel water as well as other supplies currently in negotiation as a “package” of water that could be sold for the use of new development. The Board could also choose to look at the Nickel water as a separate “type” of water that could be used to augment current supplies for existing residents, particularly in dry years. Under this scenario, the Board could choose to fund the Nickel water through water rates, which would necessitate an increase in the current commodity rate.

The Board has a number of options in deciding how to fund the Nickel water purchase. If the demand from proposed development is sufficient, all of the Nickel water could be sold as water for new

development, either by itself or as part of a package with other water supplies to be procured in the near future. If the demand from new development exceeds the supply of Nickel water, staff will in the near future bring forward additional supplies of long-term water to make up the difference. If demand from new development is insufficient for the Nickel water, the Board could choose to sell the water as augmented reliability to existing users and include it in a new water rate, or the Board could decide to market the Nickel water to others outside of the service area. Any of these options could provide the revenue stream necessary to fund the fixed costs of the leased water. Staff will continue to seek out long-term water supplies even in the event that there is an insufficient demand for the Nickel water from proposed development, based on conversations with numerous stakeholders indicating that such a demand exists.

Staff will present information at the workshop related to the cost of current Table A water and its expected cost increases, as well as the cost of the Nickel water and its expected cost increases. Staff will also present information related to the cost of the Nickel water if it were to be sold as water for proposed development or if it were to be incorporated into the Agency's water rate. A consultant will be present to describe how each of these might work.

Recommendation:

Staff has no recommendation. Staff is seeking direction from the Board regarding how to structure a financing plan for the Nickel water. No final decisions need to be made at this meeting, though the Board could provide direction to staff to move in a particular direction if it feels comfortable doing so based on the information presented and the discussion at the meeting.