

**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue, Beaumont, CA**  
**Board of Directors Meeting**  
**Agenda**  
**May 15, 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. 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, May 1, 2017\* (p. 3)
  - B. Approval of the Minutes of the Engineering Workshop, May 8, 2017\* (p. 6)
- 5. Reports:**
  - A. General Manager's Report
    1. Operations Report
    2. Report on ACWA Conference
    3. General Agency Updates
  - B. General Counsel Report
  - C. Directors' Reports
- 6. New Business:**
  - A. Public Hearing on Determination of Whether to Form a Groundwater Sustainability Agency Pursuant to the Sustainable Groundwater Management Act for the Verbenia Area of the San Gorgonio Pass Sub-basin
  - B. Consideration of Resolution No. 2017-07 – Election to Become a Groundwater Sustainability Agency for the Verbenia Area of the San Gorgonio Pass Sub-basin\* (p. 7)
  - C. Public Hearing on Determination of Whether to Form a Groundwater Sustainability Agency Pursuant to the Sustainable Groundwater Management Act for the San Timoteo Sub-basin
  - D. Consideration of Resolution No. 2017-08 – Election to Become a Groundwater Sustainability Agency for the San Timoteo Sub-basin\* (p. 22)
  - E. Consideration and Possible Acting Regarding Application from Beaumont Cherry Valley Water District to Expand Noble Connection from 20 cfs to 34 cfs Pursuant to Ordinance 8\* (p. 38)
- 7. Topics for Future Agendas**
- 8. Announcements:**
  - A. Finance and Budget Workshop, May 22, 2017 at 4:00 p.m.
  - B. Office Closed Monday, May 29, 2017 in observance of Memorial Day
  - C. San Gorgonio Pass Regional Water Alliance, May 31, 2017
    1. Administrative Committee at 4:30 p.m. – Banning City Hall
    2. Regular Meeting at 5:30 p.m. – Banning City Hall

**9. Closed Session (2 Items)**

**A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: Nickel Farms, LLC, Bakersfield, CA – Water Rights

Agency Negotiator: Jeff Davis, General Manager

Negotiating Party: Dwayne Chisam, General Manager – AVEK

Under negotiation: price and terms of payment

**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

**10. 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](http://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.

**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue, Beaumont, California 92223**  
**Minutes of the**  
**Board of Directors Meeting**  
**May 1, 2017**

**Directors Present:** Ron Duncan, Vice President  
Lenny Stephenson, Treasurer  
Blair Ball, Director  
David Castaldo, Director  
Stephen Lehtonen, Director  
Michael Thompson, Director

**Director(s) Absent:** David Fenn, President

**Staff Present:** Jeff Davis, General Manager  
Thomas Todd, Finance Manager  
Jeff Ferre, General Counsel

1. **Call to Order, Flag Salute, Invocation, and Roll Call:** The meeting of the San Gorgonio Pass Water Agency Board of Directors was called to order by Board Vice President Ron Duncan at 7:00 p.m., May 1, 2017 in the Agency Boardroom at 1210 Beaumont Avenue, Beaumont, California. Director Thompson led the Pledge of Allegiance to the flag. Director Lehtonen led the invocation. A quorum was present.
2. **Adoption and Adjustment of Agenda:** *Vice President Duncan asked if there were any adjustments to the agenda.* There being none the Agenda was adopted as presented.
3. **Public Comment:** *Vice President Duncan asked if there were any members of the public that wished to make a public comment on items that are within the jurisdiction of the Agency.* There were no members of the public that wished to comment at this time.
4. **Consent Calendar:**
  - A. Approval of the Minutes of the Regular Board Meeting, April 17, 2017
  - B. Approval of the Minutes of the Finance and Budget Workshop, April 24, 2017
  - C. Approval of the Finance and Budget Workshop Report, April 24, 2017

Director Stephenson made a motion, seconded by Director Castaldo, to adopt the consent calendar as presented. Motion passed 6-0.

**5. Reports:**

**A. General Manager's Report:**

**(1) Operations Report:** **(a) SWP Water Deliveries:** The Agency delivered a total of 1343 acre-feet to the Noble Creek Connection, for the month of April. **(b) Citrus Reservoir:** The installation of four new pumps at Citrus Reservoir is now complete and should go online this week. **(c) Fishing Derby:** The annual fishing derby took place this past weekend at the BCVWD recharge facility. No lack of water issues arose this year as it had during the past few years due to the drought. **(d) SWP Allocation:** State Water Project allocation is up to 85%; 5% is for RPA's for June, related to the San Joaquin River; 10% is for Fall X2, which is water that has to be released in the fall to keep salinity at bay. **(e) Oroville Spillway:** Construction is beginning on the

spillway repairs. DWR Director Bill Croyle will be providing the keynote address at the 2017 Spring ACWA Conference. He will share his first-hand account of the emergency response and offer insights into the lessons learned.

**(2) General Agency Updates:** **(a) Conservation Restrictions:** Conservations restrictions were eliminated by the State Board; however there are permanent restrictions still in place. There are still efforts to implement the “conservation as a way of life” ethic, with legislative efforts currently ongoing. **(b) Sites Update:** There is a deadline for Prop 1 funding applications of August 2017. General Manager Davis is involved in reviewing the CEQA/NEPA documents for the Sites project. If the project receives Prop 1 funding the environmental benefits needs to be realized by 2030; therefore, the project would need to be online by 2030. In order for it to be online in 2030 construction would need to begin by 2022. The entire project cost is approximately \$5 billion. There are \$335 million in federal funds available for pre-construction activities; we are asking for \$100 million. Lastly, one of the participants dropped out so their Class 1 water (10,000 AF) got redistributed. BCVWD was informed of this latest development. We now have 62.9% Class 1 water, up from 56.9%. **(c) Flume Update:** The Participating Entities had a conference call with USFS on the permit application. USFS is requesting more studies at a cost of \$736k and to reopen the FERC Environmental Assessment in order to fill in the gaps. In their words “Everything requires USFS buy-in and oversight.” The designing of the repair facilities will include Edison assistance. USFS is stating that they need to be involved with the design also. The PE’s have stated that both a CEQA and NEPA are needed, however USFS is not interested in doing CEQA. The PE’s do have the authority to propose an alternative methodology to the regional forester as an appeal process. **(d) High Valleys Water Rates:** General Manager Davis stated that High Valleys Water District is a public water agency and basically a residential customer of the City of Banning; they receive no wholesale water rate. High Valleys had talked to the Agency about purchasing water from us and putting it in our recharge facility in Banning’s storage account. Banning would “wheel” the water to them instead of selling it to them. General Manager Davis has met with High Valleys and Banning but to date nothing has come to fruition.

**B. General Counsel Report:** **(a)** General Counsel Jeff Ferré deferred from reporting due to the length of the agenda.

**C. Directors Reports:** **(1) Director Thompson** reported on the SGPRWA meeting that he attended. He stated that General Manager Davis was the guest speaker and he provided a very informative talk on the Agency’s 2015 UWMP. **(2) Director Lehtonen** reported on the Beaumont Chamber Breakfast that he attended.

## 6. New Business:

**A. Consideration and Possible Action for Adopting Legislative Principles for the Agency:** A copy of the staff report, related material, and SGPWA Draft Legislative Principles 2017-2018 were included in the agenda packet. General Manager Davis stated that the Agency has been receiving numerous requests to support various legislative issues. These requests come with deadlines, some of which the Agency cannot meet due to timing of the Board meeting. General Manager Davis and Legal Counsel Jeff Ferre drafted Legislative Principles 2017-2018. Staff wishes to get some direction from the Board on what issues Staff can sign letters on without prior Board

authorization. General Manager Davis reviewed the Draft Legislative Principles with the Board. These legislative principles are specific to the 2017-2018 legislative session. Director Ball had reservations, stating that the Agency is already represented by ACWA and others. After discussion, Director Lehtonen made a motion, seconded by Director Castaldo, to adopt the draft Legislative Principles 2017-2018, as presented and for the General Manager to provide to all board members a copy of any legislative letters that he signs. Motion passed 5-1 with Director Ball opposing the motion; President Fenn absent.

**7. Topics for Future Agendas: None.**

**8. Announcements:**

- A. Engineering Workshop May 8, 2017 at 4:00 p.m.
- B. Regular Board Meeting, May 15, 2017 at 7:00 p.m.
- C. Finance and Budget Workshop May 22, 2017 at 4:00 p.m.

**9. Closed Session (2 Items)**

**Time: 7:55**

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Pursuant to Government Code Section 54956.8  
Property: Nickel Farms, LLC, Bakersfield, CA – Water Rights  
Agency Negotiator: Jeff Davis, General Manager  
Negotiating Party: Dwayne Chisam, General Manager – AVEK  
Under negotiation: price and terms of payment
  
- 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

**The meeting reconvened to open session at: Time: 8:17 pm**

*General Counsel Ferre stated that there was no action taken during closed session that is reportable under the Brown Act.*

**10. Adjournment**

**Time: 8:17 pm**

*Draft - Subject to Board Approval*

Jeffrey W. Davis, Secretary of the Board

2017

**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue, Beaumont, CA 92223**  
**Minutes of the**  
**Board of Directors Engineering Workshop**  
**May 8, 2017**

**Directors Present:** David Fenn, President  
David Castaldo, Director  
Ron Duncan, Director  
Steve Lehtonen, Director

**Directors Absent:** Blair Ball, Director  
Leonard Stephenson, Director  
Michael Thompson, Director

**Staff Present:** Jeff Ferre, General Counsel  
Paeter Garcia, Legal Counsel  
Cheryle Rasmussen, Executive Assistant

**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 Director Duncan at 4:00 p.m., May 8, 2017 in the Agency Conference room at 1210 Beaumont Avenue, Beaumont, California. Director Duncan led the Pledge of Allegiance to the flag. A quorum was present.

**2. Public Comment.** No members of the public wished to speak at this time.

**3. Closed Session (1 Item) Time: 4:02**  
A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Invitation of litigation pursuant to paragraph (4) of subdivision (d)  
of Government Code Section 54956.9  
One potential case

**The meeting reconvened to open session at: Time: 5:23**

*General Counsel Ferre stated that there was no action taken during closed session that is reportable under the Brown Act.*

**4. Adjournment Time: 5:24**

***Draft - Subject to Board Approval***

Jeffrey Ferre, Legal Counsel

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## MEMORANDUM

**TO:** Board of Directors

**FROM:** General Manager

**RE:** Formation of GSA for Verbenia Area of San Gorgonio Pass Sub-Basin

**DATE:** May 15, 2017

### **Summary:**

The Board previously voted to become part of a Groundwater Sustainability Agency (GSA) for the San Gorgonio Pass Sub-Basin with local retail agencies. The area covered by that GSA did not include one square mile that is in the Agency's service area as well as the service area of the Mission Springs Water District. The purpose of this proposed Board action is to create another GSA for the San Gorgonio Pass Sub-Basin for the one square mile area, with the Mission Springs Water District.

### **Background:**

There are currently two GSA's for the San Gorgonio Pass Sub-Basin—the San Gorgonio Pass GSA and the San Gorgonio Pass-Desert Water Agency GSA. The latter is completely within the service area of the Desert Water Agency. When the Board voted to approve formation of the San Gorgonio Pass Sub-Basin GSA and to become part of it, staff informed the Board that in the near future the Board would be asked to approve formation of this new GSA, named the Verbenia GSA. With the formation of this GSA, the entire San Gorgonio Pass Sub-Basin will now be included in a GSA, as required by the Sustainable Groundwater Management Act (SGMA).

### **Detailed Report:**

While this will be a new and separate GSA, it is expected that the Agency and the Mission Springs Water District will work closely with the other two GSA's to create one or more groundwater sustainability plans (GSP's) for the sub-basin. Staff does not anticipate a separate GSP for this portion of the sub-basin.

Creation of this additional GSA was necessitated by the desire of the Mission Springs Water District to have some control over the GSP for this portion of its service area. Since it is in the Agency's service area as well, it makes the most sense for the Agency and the District to partner on the creation of the GSA, which is occurring. Staff of both the Agency and the District have worked together to develop the accompanying MOA and resolution.

**Fiscal Impact:**

There should be very little fiscal impact associated with the creation of this separate GSA, since it is anticipated that only one GSP will be created for the portion of the sub-basin in the Agency's service area.

**Recommendation:**

It is recommended that the Board adopt Resolution 2017-07, creating the Verbenia GSA within the San Gorgonio Pass Sub-Basin, along with the Mission Springs Water District.



**RESOLUTION 2017 - 07**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE SAN GORGONIO PASS WATER AGENCY TO APPROVE THE  
MEMORANDUM OF AGREEMENT TO JOINTLY FORM THE VERBENIA  
GROUNDWATER SUSTAINABILITY AGENCY FOR A PORTION OF THE SAN  
GORGONIO PASS SUBBASIN AND TO COORDINATE WITH OTHER  
GROUNDWATER SUSTAINABILITY AGENCIES**

**WHEREAS**, the Sustainable Groundwater Management Act of 2014 (SGMA) was signed into law on September 16, 2014, went into effect on January 1, 2015, and has been subject to various amendments; and

**WHEREAS**, SGMA provides for the sustainable management of groundwater basins at the local level through the formation of Groundwater Sustainability Agencies (GSAs) and through preparation and implementation of Groundwater Sustainability Plans (GSPs); and

**WHEREAS**, the San Gorgonio Pass Subbasin (Basin) is identified by the California Department of Water Resources (DWR) Bulletin 118 as Subbasin No. 7-21.04 of the Coachella Valley Groundwater Basin, and is designated by DWR as medium priority, and therefore, except as provided by SGMA, the Basin is subject to the requirements of SGMA; and

**WHEREAS**, the San Gorgonio Pass Water Agency (Agency) is a special act agency of the State of California, organized and operating pursuant to the San Gorgonio Pass Water Agency Law, California Water Code Appendix, Chapter 101, and accordingly the Agency constitutes a local agency for all purposes under SGMA; and

**WHEREAS**, SGMA authorizes a combination of local agencies as defined by SGMA to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement, and SGMA also authorizes a water corporation regulated by the California Public Utilities Commission or a mutual water company to participate in a GSA through a memorandum of agreement or other legal agreement; and

**WHEREAS**, in accordance with SGMA, the Agency and the Mission Springs Water District have prepared a Memorandum of Agreement (MOA), attached hereto as **Exhibit A**, to jointly form a GSA for an approximately one-square mile portion of the Basin referred to in the MOA as the "Verbenia Area," which GSA is referred to as the Verbenia-GSA and the members of which are the Agency and Mission Springs Water District; and

**WHEREAS**, in addition to establishing the Verbenia-GSA for a portion of the Basin, the MOA between the Agency and Mission Springs Water District provides that the efforts of the Verbenia-GSA will be coordinated with the efforts of two other GSAs in the Basin, including the Desert Water Agency GSA (DWA-GSA), and the GSA formed by the City of Banning, Banning Heights Mutual Water Company, Cabazon Water District, and the Agency (SGP-GSA), to carry out the policy, purposes, and requirements of SGMA in the Basin; and

**WHEREAS**, the MOA provides that the Agency and Mission Springs Water District desire and intend that the Verbenia-GSA, the SGP-GSA, and the DWA-GSA will cooperate and coordinate in subsequently preparing and implementing one or more GSPs for sustainable management of the Basin in accordance with SGMA; and

**WHEREAS**, the Agency is committed to the sustainable management of groundwater resources within the Basin in accordance with SGMA; and

**WHEREAS**, pursuant to the requirements of SGMA, the Agency held a public hearing on this date after publications of notice pursuant to California Government Code Section 6066 to consider adoption of this Resolution; and

**WHEREAS**, pursuant to SGMA Section 10728.6 and Public Resources Code Section 21065, neither this Resolution, nor the MOA, nor the preparation or adoption of a GSP constitutes a project or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY THAT:**

1. The San Gorgonio Pass Water Agency hereby approves the Memorandum of Agreement to Jointly Form the Verbenia Groundwater Sustainability Agency for a Portion of the San Gorgonio Pass Subbasin and to Coordinate with Other Groundwater Sustainability Agencies (MOA), a copy of which is attached hereto as **Exhibit A**.
2. Pursuant to the MOA and as authorized by SGMA, the San Gorgonio Pass Water Agency elects to jointly form and participate with the Mission Springs Water District as a member of the Verbenia Groundwater Sustainability Agency (Verbenia-GSA) for a portion of the Basin as further set forth and depicted in the MOA.
3. The General Manager of the San Gorgonio Pass Water Agency is hereby authorized and directed to coordinate with representatives of the Mission Springs Water District to submit a copy of this Resolution and other applicable information to the California Department of Water Resources regarding the formation of the Verbenia-GSA.

**I HEREBY CERTIFY** that the foregoing is a true, full and correct copy of Resolution 2017-07 that was duly introduced, passed and adopted at a regular meeting of the Board of Directors of the San Gorgonio Pass Water Agency, at its regular meeting on May 15, 2017.

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David L. Fenn, Board President  
San Gorgonio Pass Water Agency

ATTEST:

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Jeffrey Davis, Secretary

**MEMORANDUM OF AGREEMENT TO FORM A GROUNDWATER SUSTAINABILITY  
AGENCY FOR THE VERBENIA AREA OF THE SAN GORGONIO PASS SUBBASIN**

This 2017 Memorandum of Agreement (MOA) is entered into by and between the Mission Springs Water District (MSWD) and the San Gorgonio Pass Water Agency (SGPWA), which may be referred to herein individually as a "Party" and collectively as the "Parties."

Pursuant to the Sustainable Groundwater Management Act (SGMA), and as further set forth herein, the purpose of this MOA is for MSWD and SGPWA to form a Groundwater Sustainability Agency (GSA) for an approximately one-square mile portion of the San Gorgonio Pass Subbasin referred to herein as the "Verbenia Area."

**WHEREAS**, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319, and Assembly Bill 1739, collectively known as the Sustainable Groundwater Management Act, codified in certain provisions of the California Government Code, commencing with Section 65350.5, and in certain provisions of the California Water Code, including but not limited to, Sections 5200 et seq. and 10720 et seq.; and

**WHEREAS**, SGMA went into effect on January 1, 2015, and thereafter various clarifying amendments to SGMA were signed into law in 2015, including Senate Bills 13 and 226, and Assembly Bills 617 and 939; and

**WHEREAS**, the San Gorgonio Pass Subbasin (Basin), as further depicted in **Exhibit A** to this MOA, is identified by the California Department of Water Resources (DWR) Bulletin 118 as Subbasin No. 7-21.04 of the Coachella Valley Groundwater Basin, and is designated by DWR as medium priority, and therefore, except as provided by SGMA, the Basin is subject to the requirements of SGMA; and

**WHEREAS**, the Parties recognize and agree that a portion of the Basin (herein, the Adjudicated Area) is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197, and that pursuant to SGMA Section 10720.8(a)(1), said portion of the Basin generally is not subject to the requirements of SGMA; and

**WHEREAS**, SGMA Section 10720.7 requires the Basin, as a medium priority basin which is not designated by DWR as being subject to critical conditions of overdraft, to be managed by a Groundwater Sustainability Plan (GSP) or coordinated GSPs by January 31, 2022; and

**WHEREAS**, SGMA Section 10727(b) authorizes (1) a single GSP covering the entire Basin developed and implemented by one GSA, (2) a single GSP covering the entire Basin developed and implemented by multiple GSAs, or (3) multiple GSPs developed and implemented by multiple GSAs and coordinated pursuant to a single coordination agreement that covers the entire Basin; and

**WHEREAS**, SGMA Section 10735.2 requires the formation of a GSA or multiple GSAs for the Basin by June 30, 2017; and

**WHEREAS**, SGMA Section 10723.6(a) authorizes a combination of local agencies to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement; and

**WHEREAS**, pursuant to SGMA, the City of Banning, Banning Heights Mutual Water Company, Cabazon Water District, and SGPWA each have adopted Resolutions of their respective governing boards to jointly form and establish a GSA (referred to as the SGP-GSA) for a certain portion of the Basin, as further depicted in **Exhibit B** to this MOA; and

**WHEREAS**, pursuant to SGMA Section 10723(c)(1)(C), Desert Water Agency has been designated as the exclusive GSA for a certain portion of the Basin (referred to as the DWA-GSA), in which DWA's boundaries overlap the MSWD service area, as further depicted in **Exhibit C** to this MOA; and

**WHEREAS**, on or about September 28, 2016, MSWD filed an amended notice of intent to be a GSA for an approximately one-square mile portion of the Basin that lies within the service areas of MSWD and SGPWA, which one-square mile area is further specified and depicted in **Exhibit D** to this MOA, and is referred to herein as the "Verbenia Area"; and

**WHEREAS**, on or about January 10, 2017, SGPWA also filed a notice of intent to be a GSA for the Verbenia Area; and

**WHEREAS**, on or about January 13, 2017, DWR designated the Verbenia Area to be in overlap for purposes of the competing GSA notices filed by MSWD and SGPWA, and thus MSWD and SGPWA have worked together to prepare this MOA to establish a separate GSA for the Verbenia Area (herein, the Verbenia-GSA); and

**WHEREAS**, both MSWD and SGPWA overlies the Verbenia Area and each has respective water supply and water management responsibilities within the Verbenia Area, and thus each is authorized by SGMA to become part of the Verbenia-GSA; and

**WHEREAS**, in accordance with the terms of this MOA, the Parties agree that the Verbenia-GSA formed by this MOA will cover the Verbenia Area of the Basin, and the Parties mutually desire and intend that the Verbenia-GSA, the SGP-GSA, and the DWA-GSA will cooperate and coordinate in subsequently preparing and implementing one or more GSPs for sustainable management of the Basin; and

**WHEREAS**, in entering into the Verbenia-GSA MOA, MSWD makes no admission or agreement that DWA is the exclusive GSA over any part of MSWD's service area, including the area designated herein or in the Verbenia-GSA MOA as the DWA-GSA; and

**WHEREAS**, the Parties mutually desire and intend to work with local stakeholders and interested entities within the Verbenia-GSA to carry out the policy, purposes, and requirements of SGMA in the Verbenia Area.

**NOW, THEREFORE**, in consideration of the terms, conditions, and covenants contained herein, it is mutually understood and agreed as follows:

**I. Incorporation of Recitals**

The Recitals stated above are incorporated herein by reference.

## II. Purpose

The purpose of this MOA is to form the Verbenia-GSA for an approximately one-square mile portion of the Basin as specified herein and as depicted in **Exhibit D** to this MOA pursuant to applicable provisions and requirements of SGMA, including but not limited to SGMA Sections 10723 and 10723.6.

## III. Approval of MOA and Formation of the Verbenia-GSA

Approval of this MOA and formation of the Verbenia-GSA shall be accomplished as follows:

- A. MSWD and SGPWA each will hold its own noticed public hearing pursuant to SGMA Section 10723(b) and Government Code Section 6066 and at such hearing will consider approval of a Resolution by its governing board to enter this MOA and jointly form the Verbenia-GSA as specified in this MOA;
- B. Upon the foregoing respective approvals by MSWD and SGPWA, there shall be established the Verbenia Area Groundwater Sustainability Agency (Verbenia-GSA), the members of which shall be MSWD and SGPWA as provided in this MOA.

## IV. Definitions

The following terms, whether used in the singular or plural, and when used with initial capitalization, shall have the meanings specified herein. The Parties agree that any definitions set forth herein are intended to be consistent with SGMA, and in the event of any discrepancy between a defined term in this MOA and a defined term in SGMA, the terms of SGMA shall control.

- A. **Adjudicated Area** refers to that portion of the Basin that is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197.
- B. **Basin** refers to the San Gorgonio Pass Subbasin, designated by the California Department of Water Resources Bulletin 118 as Subbasin No. 7-21.04, as further specified and depicted in **Exhibit A** to this MOA.
- C. **DWR** means the California Department of Water Resources.
- D. **DWA-GSA** refers to the GSA that is currently designated for a certain portion of the Basin pursuant to SGMA Section 10723(c)(1)(C), wherein DWA has been designated as the exclusive GSA, as further depicted in **Exhibit C** to this MOA; provided, however, that the portion of the Basin depicted in **Exhibit C** as the DWA-GSA overlaps with MSWD's service area, and DWA's exclusive GSA designation over the DWA-GSA is currently subject to litigation between MSWD and DWA.
- E. **GSA** means Groundwater Sustainability Agency, as defined by SGMA.
- F. **GSP** means Groundwater Sustainability Plan, as defined by SGMA.

- G. **Memorandum of Agreement** or **MOA** refers to this Memorandum of Agreement.
- H. **MSWD** means the Mission Springs Water District.
- I. **Party** or **Parties** refers individually or collectively to Mission Springs Water District and San Gorgonio Pass Water Agency, as signatories to this MOA.
- J. **SGMA** refers to the Sustainable Groundwater Management Act.
- K. **SGP-GSA** refers to the San Gorgonio Pass Subbasin GSA being formed for a certain portion of the Basin by the Cabazon Water District, City of Banning, Banning Heights Mutual Water Company, and SGPWA, as further depicted in **Exhibit B** to this MOA.
- L. **SGPWA** means the San Gorgonio Pass Water Agency.
- M. **Verbenia-GSA** refers to the GSA being formed by MSWD and SGPWA pursuant to this MOA for an approximately one-square mile portion of the Basin that lies within the respective service areas of MSWD and SGPWA, as further specified and depicted in **Exhibit D** to this MOA.

**V. Boundaries of the Verbenia-GSA**

The boundaries of the Verbenia-GSA shall be the approximately one-square mile portion of the Basin that lies within the respective service areas of MSWD and SGPWA, as further specified and depicted in **Exhibit D** to this MOA.

**VI. Coordination and Cooperation**

- A. **Continued Cooperation.** The Parties to this MOA will continue to meet, confer, coordinate, and collaborate to discuss and develop technical, managerial, financial, and other criteria and procedures applicable to the Verbenia Area, and to cooperate with the SGP-GSA and DWA-GSA regarding the preparation, governance, and implementation of a GSP or coordinated GSPs in the Basin pursuant to SGMA.
- B. **Points of Contact.** Each Party shall designate a principal contact person for that Party, who may be changed from time to time at the sole discretion of the designating Party. The principal contact person for each Party shall be responsible for coordinating with the principal contact persons for the other Party in scheduling meetings and other activities under this MOA.
- C. **Management Areas.** The Parties acknowledge that SGMA, and provisions of the SGMA regulations promulgated by DWR, including but not limited to Section 354.20 (23 C.C.R. § 354.20), authorize the establishment of management areas for the development and implementation of sustainable groundwater management within the Basin, and accordingly the Parties acknowledge and agree that the establishment of management areas within the Basin is a governance alternative that the Parties may explore with the SGP-GSA and DWA-GSA.

**VII. Roles and Responsibilities**

- A. The Parties agree to jointly establish their roles and responsibilities for SGMA compliance relating to the Verbenia Area.
- B. The Parties shall coordinate with each other to cause all applicable noticing and submission of required information to DWR regarding formation of the Verbenia-GSA.

**VIII. Funding and Budgeting**

The Parties shall mutually develop reasonable budgets and cost sharing agreements or arrangements for work to be undertaken for SGMA compliance relating to the Verbenia Area.

**IX. Stakeholder Access**

The Parties agree to work together in ensuring public outreach and involvement of the public and other interested stakeholders within the Verbenia Area throughout the SGMA process, including but not limited to all beneficial uses and users of groundwater as provided in SGMA Section 10723.2.

**X. Term, Termination, and Withdrawal**

- A. Term. This MOA shall continue and remain in effect unless and until terminated by the unanimous written consent of the Parties, or as otherwise provided in this MOA, or as authorized by law.
- B. Withdrawal. Either Party may decide, in its sole discretion, to withdraw from this MOA by providing ninety (90) days written notice to the other Party. A Party that withdraws from this MOA shall remain obligated to pay its share of costs and expenses incurred or accrued under this MOA and any related cost sharing agreement or arrangement up to the date the Party provides its notice of withdrawal as provided herein. Withdrawal by a Party shall cause the termination of this MOA, in which case MSWD and SGPWA shall meet and confer regarding: (i) ongoing compliance with SGMA for purposes of the Verbenia Area; (ii) whether either Party or both of the Parties may desire to retain GSA status over the Verbenia Area; and (iii) notices and information to be submitted to DWR and/or the State Water Resources Control Board. The Parties agree to undertake the resolution of such issues in a manner that satisfies all requirements of SGMA.

**XI. Notice Provisions**

All notices required by this MOA shall be made in writing and delivered to the respective representatives of the Parties using the following contact information:

Mission Springs Water District  
General Manager  
66575 Second Street  
Desert Hot Springs, CA 92240  
Fax: (760) 329-2482

San Gorgonio Pass Water Agency  
General Manager  
1210 Beaumont Avenue  
Beaumont, CA 92223  
Fax: (951) 845-0281

Either Party may change its contact information for which notices are to be given under this MOA by providing the other Party with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change. All notices shall be effective upon receipt and shall be deemed received upon confirmed personal service, confirmed facsimile delivery, confirmed courier service, or on the fifth (5<sup>th</sup>) calendar day following deposit of the notice in registered first class mail.

## **XII. General Terms**

- A. **Amendments.** Amendments to this MOA require unanimous written consent of each Party and approval by the Parties' respective governing boards.
- B. **Successors and Assigns.** The terms of this MOA shall be binding upon all successors in interest and assigns of each Party; provided, however, that no Party shall assign its rights or obligations under this MOA without the signed written consent of the other Party to this MOA.
- C. **Waiver.** No waiver of any provision of this MOA by either Party shall be construed as a further or continuing waiver of such provision or any other provision of this MOA by the waiving Party or the other Party.
- D. **Authorized Representatives.** Each person executing this MOA on behalf of a Party hereto affirmatively represents that such person has the requisite authority to sign this MOA on behalf of the respective Party.
- E. **Exemption from CEQA.** The Parties recognize and agree that, pursuant to SGMA Section 10728.6 and Public Resources Code Section 21065, neither this MOA nor the preparation or adoption of a GSP constitutes a "project" or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines, and therefore this MOA is expressly exempt from CEQA review.
- F. **Governing Law and Venue.** This MOA shall be governed by and construed in accordance with the laws of the State of California. Any suit, action, or proceeding brought under the scope of this MOA shall be brought and maintained to the extent allowed by law in the County of Riverside, California.
- G. **Attorney's Fees, Costs, and Expenses.** In the event of a dispute between the Parties arising under this MOA, each Party shall assume and be responsible for its own attorney's fees, costs, and expenses.
- H. **Construction and Interpretation.** The Parties agree and acknowledge that this MOA has been developed through a negotiated process between the Parties, and that each Party has had a full and fair opportunity to review the terms of this MOA with the advice of its own legal counsel and to revise the terms of this MOA, such that each Party



constitutes a drafting Party to this MOA. Consequently, the Parties understand and agree that no rule of construction shall be applied to resolve any ambiguities against either Party as the drafting Party in construing or interpreting this MOA.

- I. Force Majeure. No Party shall be liable for the consequences of any unforeseeable force majeure event that (1) is beyond its reasonable control, (2) is not caused by the fault or negligence of such Party, (3) causes such Party to be unable to perform its obligations under this MOA, and (4) cannot be overcome by the exercise of due diligence. In the event of the occurrence of a force majeure event, the Party unable to perform shall promptly notify the other Party in writing to the extent practicable. It shall further pursue its best efforts to resume its obligations under this MOA as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the force majeure event.
- J. Execution in Counterparts. This MOA may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.
- K. No Third Party Beneficiaries. This MOA is not intended, and will not be construed, to confer a benefit or create any right on a third party or the power or right of any third party to bring an action to enforce any of the terms of this MOA.
- L. Timing and Captions. Any provision of this MOA referencing a time, number of days, or period for performance shall be measured in calendar days. The captions of the various articles, sections, and paragraphs of this MOA are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, terms, or intent of this MOA.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

*[Signature Pages to Follow]*

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

MISSION SPRINGS WATER DISTRICT

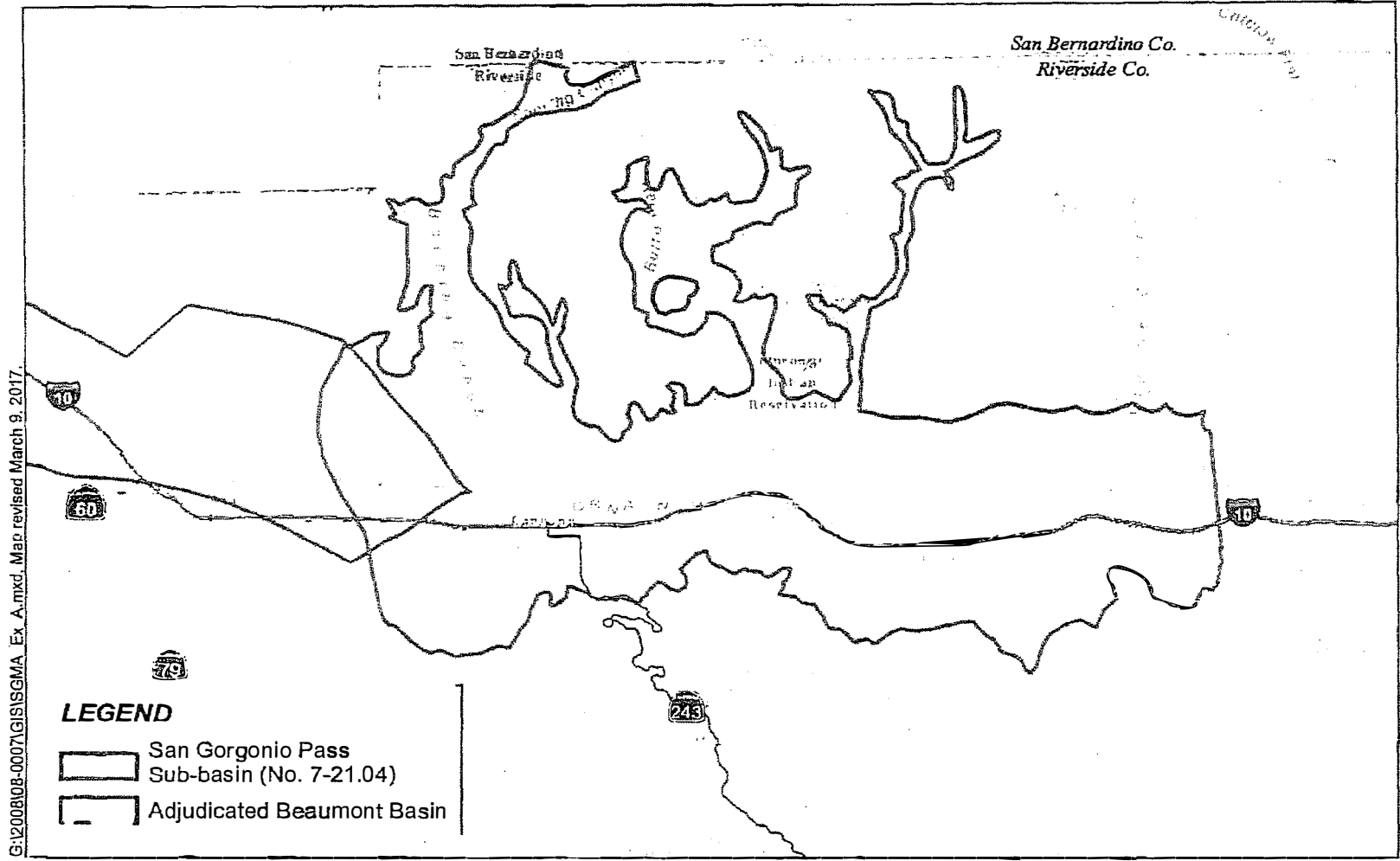
By: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

SAN GORGONIO PASS WATER AGENCY



By: \_\_\_\_\_

20 / 89



G:\2008\08-0007\GIS\SGMA\_Ex\_A.mxd, Map revised March 9, 2017.

**LEGEND**

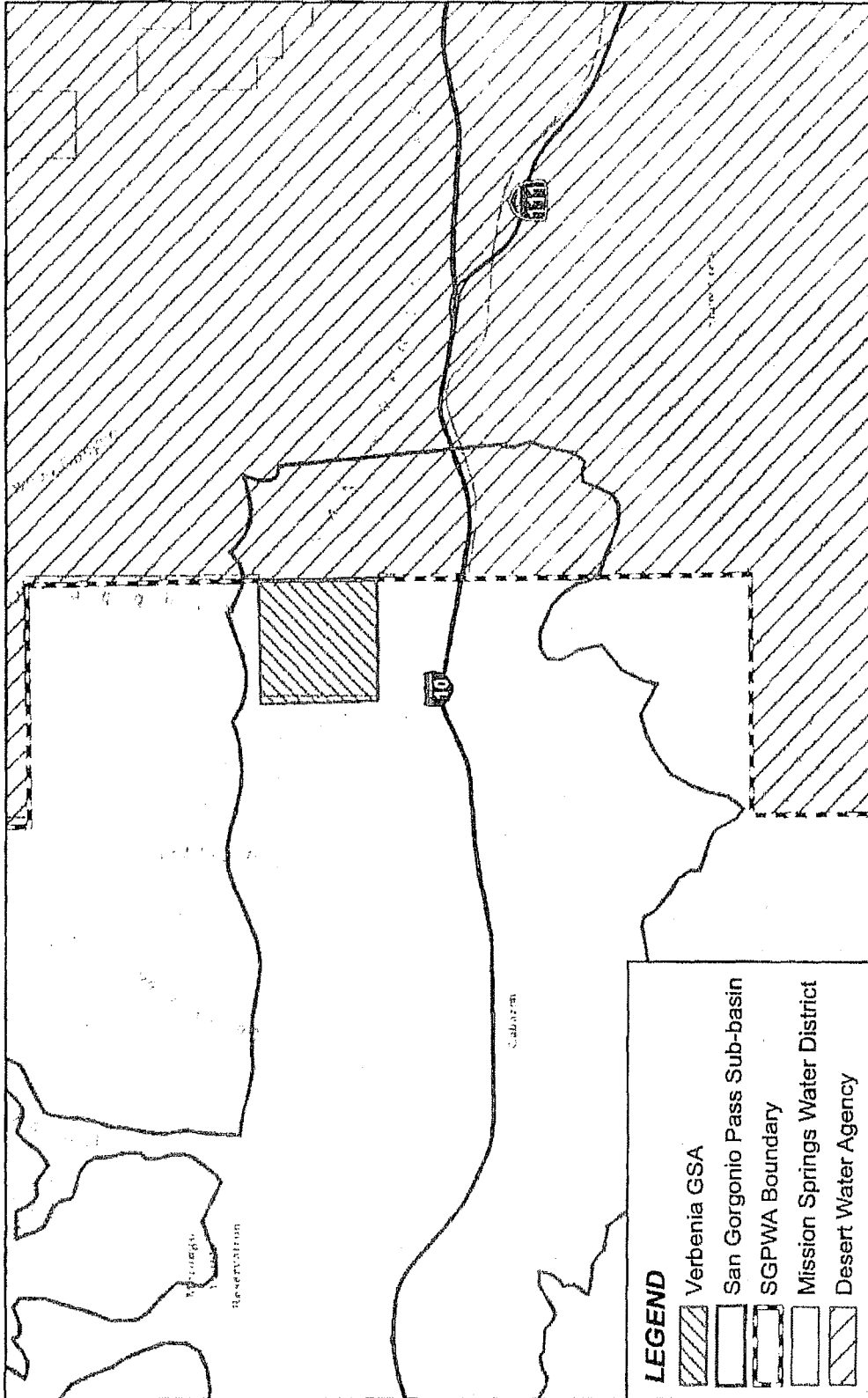
-  San Gorgonio Pass Sub-basin (No. 7-21.04)
-  Adjudicated Beaumont Basin

Sources: Calif. Dept. of Water Resources, 2016; Riverside Co. GIS, 2016.



**Exhibit A**  
**San Gorgonio Pass Sub-basin**



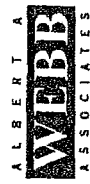


G:\2008\08-0007\GIS\SGMA\_Ex\_D.mxd Map revised March 2, 2017.

Sources: Calif. Dept. of Water Resources, 2016;  
LAFCO 2010; Riverside Co. GIS, 2017

**Exhibit D**

Verbenia GSA



# MEMORANDUM

**TO:** Board of Directors

**FROM:** General Manager

**RE:** Creation of Groundwater Sustainability Agency (GSA) for the San Timoteo Sub-Basin

**DATE:** May 15, 2017

## **Summary:**

The purpose of the proposed Board action is to create a Groundwater Sustainability Agency (GSA) for the San Timoteo Sub-Basin, along with the Yucaipa Valley Water District, Beaumont Cherry Valley Water District, and the City of Redlands. This is required under the terms of the Sustainable Groundwater Management Act (SGMA).

## **Background:**

Agency staff has been meeting for months with the parties mentioned above to create a GSA for the San Timoteo Sub-Basin (shown in the accompanying map). Initially, Eastern Municipal Water District was involved as well. The southern portion of the basin, located in the Badlands, is in Eastern's service area. However, Eastern dropped out of the group and is pursuing its own GSA for that portion of the basin. Therefore, this GSA will cover that portion of the San Timoteo Sub-Basin not included in Eastern's GSA.

## **Detailed Report:**

The accompanying MOA was based on the MOA that the Agency adopted for the San Gorgonio Pass Sub-Basin, and includes the same features. The Beaumont Basin, the adjudicated basin that is located partially in the San Timoteo Sub-Basin and partially in the San Gorgonio Pass Sub-Basin, is not included as part of the GSA.

There are small portions of the Sub-Basin that are not included in the boundaries of the members of the GSA. Most of these are in the Oak Glen area. Since San Bernardino County chose not to participate in any GSA, these small areas will not have a member of the GSA that

has governmental powers within their boundaries. However the members of the GSA will note in our application to DWR that these are minimal, represent a minimal portion of all pumping from the basin, and therefore should not be considered as a “hole” in the basin for purposes of SGMA.

**Fiscal Impact:**

There will be a significant financial impact to implementing SGMA. A groundwater sustainability plan (GSP) will be required, which will likely involve the hiring of a consultant and preparation of a water budget, a model, and several other best management practices. This will occur over the next several years. A GSP is due for this basin by 2022. The members of the GSA have not yet decided when to proceed on the GSP.

**Recommendation:**

Staff recommends that the Board adopt Resolution 2017-08, creating the San Timoteo Sub-Basin GSA with the City of Redlands, Beaumont Cherry Valley Water District, and Yucaipa Valley Water District.

**RESOLUTION 2017 - 08**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE SAN GORGONIO PASS WATER AGENCY TO APPROVE THE  
MEMORANDUM OF AGREEMENT TO JOINTLY FORM THE SAN TIMOTEO  
GROUNDWATER SUSTAINABILITY AGENCY FOR A PORTION OF THE SAN  
TIMOTEO SUBBASIN AND TO COORDINATE WITH OTHER  
GROUNDWATER SUSTAINABILITY AGENCIES**

**WHEREAS**, the Sustainable Groundwater Management Act of 2014 (SGMA) was signed into law on September 16, 2014, went into effect on January 1, 2015, and has been subject to various amendments; and

**WHEREAS**, SGMA provides for the sustainable management of ground water basins at the local level through the formation of Groundwater Sustainability Agencies (GSAs) and through preparation and implementation of Groundwater Sustainability Plans (GSPs); and

**WHEREAS**, the San Timoteo Subbasin (Basin) is identified by the California Department of Water Resources (DWR) Bulletin 118 as Subbasin No. 8-02.08 of the Upper Santa Ana Valley Groundwater Basin, and is designated by DWR as medium priority, and therefore, except as provided by SGMA, the Basin is subject to the requirements of SGMA; and

**WHEREAS**, the San Gorgonio Pass Water Agency (Agency) is a special act agency of the State of California, organized and operating pursuant to the San Gorgonio Pass Water Agency Law, California Water Code Appendix, Chapter 101, and accordingly the Agency constitutes a local agency for all purposes under SGMA; and

**WHEREAS**, SGMA authorizes a combination of local agencies as defined by SGMA to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement, and SGMA also authorizes a water corporation regulated by the California Public Utilities Commission or a mutual water company to participate in a GSA through a memorandum of agreement or other legal agreement; and

**WHEREAS**, in accordance with SGMA, the Agency, Beaumont Cherry Valley Water District (BCVWD), Yucaipa Valley Water District (YVWD), and the City of Redlands (Redlands) have prepared a Memorandum of Agreement (MOA), attached hereto as **Exhibit A**, to jointly form a GSA that is referred to in the MOA as the ST-GSA to cover a portion of the Basin, the members of which ST-GSA are the Agency, BCVWD, YVWD, and Redlands; and

**WHEREAS**, in addition to establishing the ST-GSA for a portion of the Basin, the MOA provides that the efforts of the ST-GSA will be coordinated with the efforts of the Eastern Municipal Water District (EMWD) to carry out the policy, purposes, and requirements of SGMA in the Basin, wherein EMWD intends to form a separate GSA for another portion of the Basin within EMWD's service area; and



**WHEREAS**, the MOA provides that the members of the ST-GSA desire and intend that the ST-GSA and the separate GSA that EMWD intends to form for another portion of the Basin will cooperate and coordinate in subsequently preparing and implementing one or more GSPs for sustainable management of the Basin in accordance with SGMA; and

**WHEREAS**, the Agency is committed to the sustainable management of groundwater resources within the Basin in accordance with SGMA; and

**WHEREAS**, pursuant to the requirements of SGMA, the Agency held a public hearing on this date after publications of notice pursuant to California Government Code Section 6066 to consider adoption of this Resolution; and

**WHEREAS**, pursuant to SGMA Section 10728.6 and Public Resources Code Section 21065, neither this Resolution, nor the MOA, nor the preparation or adoption of a GSP constitutes a project or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY THAT:**

1. The San Gorgonio Pass Water Agency hereby approves the Memorandum of Agreement to Jointly Form the San Timoteo Groundwater Sustainability Agency for a Portion of the San Timoteo Subbasin and to Coordinate with Other Groundwater Sustainability Agencies (MOA), a copy of which is attached hereto as **Exhibit A**.
2. Pursuant to the MOA and as authorized by SGMA, the San Gorgonio Pass Water Agency elects to jointly form and participate as a member of the San Timoteo Groundwater Sustainability Agency (ST-GSA) for a portion of the Basin as further set forth and depicted in the MOA.
3. The General Manager of the San Gorgonio Pass Water Agency is hereby authorized and directed to coordinate with other members of the ST-GSA to submit a copy of this Resolution and other applicable information to the California Department of Water Resources regarding the formation of the ST-GSA.

**I HEREBY CERTIFY** that the foregoing is a true, full and correct copy of Resolution 2017-08 that was duly introduced, passed and adopted at a regular meeting of the Board of Directors of the San Gorgonio Pass Water Agency, at its regular meeting on May 15, 2017.

David L. Fenn, Board President  
San Gorgonio Pass Water Agency

ATTEST:

Jeffrey Davis, Secretary

**MEMORANDUM OF AGREEMENT TO FORM A GROUNDWATER SUSTAINABILITY  
AGENCY FOR PART OF THE UNADJUDICATED PORTION OF THE  
SAN TIMOTEO SUBBASIN AND TO COORDINATE WITH OTHER  
GROUNDWATER SUSTAINABILITY AGENCIES**

This 2017 Memorandum of Agreement (MOA) is entered into by and among Beaumont Cherry Valley Water District (BCVWD), Yucaipa Valley Water District (YVWD), City of Redlands (Redlands), and San Geronio Pass Water Agency (SGPWA), which may be referred to herein individually as a "Party" and collectively as the "Parties."

Pursuant to the Sustainable Groundwater Management Act (SGMA) and as further set forth herein, the purposes of this MOA are to form a Groundwater Sustainability Agency (GSA) for part of the unadjudicated portion of the San Timoteo Subbasin (Basin), the members of which GSA shall be BCVWD, YVWD, Redlands, and SGPWA (herein, the ST-GSA), and to establish that the ST-GSA will coordinate with the Eastern Municipal Water District (EMWD) in its formation of a separate GSA for another part of the unadjudicated portion of the Basin within EMWD's service area.

**Recitals**

**WHEREAS**, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319, and Assembly Bill 1739, collectively known as the Sustainable Groundwater Management Act (SGMA), codified in certain provisions of the California Government Code, commencing with Section 65350.5, and in certain provisions of the California Water Code, including but not limited to, Sections 5200 et seq. and 10720 et seq.; and

**WHEREAS**, SGMA went into effect on January 1, 2015, and thereafter various clarifying amendments to SGMA were signed into law in 2015, including Senate Bills 13 and 226, and Assembly Bills 617 and 939; and

**WHEREAS**, the San Timoteo Subbasin (Basin), as further depicted in **Exhibit A** to this MOA, is identified by the California Department of Water Resources (DWR) Bulletin 118 as Subbasin No. 8-02.08 of the Upper Santa Ana Valley Groundwater Basin, and is designated by DWR as medium priority, and therefore, except as provided by SGMA, the Basin is subject to the requirements of SGMA; and

**WHEREAS**, the Parties recognize and agree that a portion of the Basin (herein, the Adjudicated Area) is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197, and that pursuant to SGMA Section 10720.8(a)(1), said portion of the Basin generally is not subject to the requirements of SGMA and will not be managed by the ST-GSA; and

**WHEREAS**, SGMA Section 10720.7 requires the Basin, as a medium priority basin which is not designated by DWR as being subject to critical conditions of overdraft, to be managed by a Groundwater Sustainability Plan (GSP) or coordinated GSPs by January 31, 2022; and

**WHEREAS**, SGMA Section 10727(b) authorizes (1) a single GSP covering the entire Basin developed and implemented by one GSA, (2) a single GSP covering the entire Basin developed and implemented by multiple GSAs, or (3) multiple GSPs developed and implemented by multiple GSAs and coordinated pursuant to a single coordination agreement that covers the entire Basin; and

**WHEREAS**, SGMA Section 10735.2 requires the formation of a GSA or multiple GSAs for the Basin by June 30, 2017; and

**WHEREAS**, SGMA Section 10723.6(a) authorizes a combination of local agencies to form a GSA pursuant to a joint powers agreement, a memorandum of agreement, or other legal agreement; and

**WHEREAS**, BCVWD, YVWD, Redlands, and SGPWA are local agencies as defined by SGMA, wherein each agency overlies at least a portion of the Basin and each has respective water supply, water management, and/or land use responsibilities within the Basin, and thus each is authorized by SGMA to become part of the ST-GSA; and

**WHEREAS**, in accordance with the terms of this MOA, and in furtherance of the shared intent of the Parties to maximize funding opportunities for the Basin and avoid potential intervention in the Basin by the State Water Resources Control Board, the Parties agree that the ST-GSA formed by this MOA will cover the entire Basin except the Adjudicated Area of the Basin and that portion of the Basin that lies within the service area of EMWD, for which EMWD intends to form a separate GSA as further described below; and

**WHEREAS**, the Parties mutually desire and intend to work with local stakeholders and interested entities in the Basin that are not Parties to this MOA, including but not limited to EMWD, the City of Beaumont (Beaumont), the City of Calimesa (Calimesa), the County of Riverside Planning Department, the County of San Bernardino Flood Control District, the San Bernardino Valley Municipal Water District, the Beaumont Basin Watermaster, overlying landowners, and others to carry out the policy, purposes, and requirements of SGMA in the Basin.

### **Agreement**

**NOW, THEREFORE**, in consideration of the promises, terms, conditions, and covenants contained herein, it is mutually understood and agreed as follows:

- I. Incorporation of Recitals.** The Recitals stated above are incorporated herein by reference.
- II. Purposes.** The purposes of this MOA are to form the ST-GSA for part of the unadjudicated portion of the Basin as specified herein pursuant to applicable provisions and requirements of SGMA, including but not limited to SGMA Sections 10723 and 10723.6, and to establish that the ST-GSA will coordinate with EMWD in its formation of a separate GSA for another part of the unadjudicated portion of the Basin within EMWD's service area.
- III. Approval of MOA and Formation of the ST-GSA.** Approval of this MOA and formation of the ST-GSA shall be accomplished by BCVWD, YVWD, Redlands, and SGPWA each holding its own noticed public hearing pursuant to SGMA Section 10723(b) and Government Code Section 6066 and at such hearing will consider approval of a Resolution by its governing board to enter this MOA and jointly form the ST-GSA as specified in this MOA. Upon the respective approvals of such Resolutions and this MOA by BCVWD, YVWD, Redlands, and SGPWA, there shall be established the ST-GSA as provided herein.
- IV. Definitions.** The following terms, whether used in the singular or plural, and when used with initial capitalization, shall have the meanings specified herein. The Parties agree that any definitions set forth herein are intended to be consistent with SGMA, and in the event of any discrepancy between a defined term in this MOA and a defined term in SGMA, the terms of SGMA shall control.

- A. “Adjudicated Area” refers to that portion of the Basin that is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197, as further depicted in **Exhibit A** to this MOA.
- B. “Basin” refers to the San Timoteo Subbasin, designated by the California Department of Water Resources Bulletin 118 as Subbasin No. 8-02.08, as further specified, and depicted in **Exhibit A** to this MOA.
- C. “BCVWD” means the Beaumont Cherry Valley Water District.
- D. “DWR” means the California Department of Water Resources.
- E. “EMWD” means the Eastern Municipal Water District.
- F. “GSA” means Groundwater Sustainability Agency, as defined by SGMA.
- G. “GSP” means Groundwater Sustainability Plan, as defined by SGMA.
- H. “Memorandum of Agreement” or “MOA” refers to this Memorandum of Agreement.
- I. “Party” or “Parties” refers individually or collectively to Beaumont Cherry Valley Water District, Yucaipa Valley Water District, City of Redlands, and San Gorgonio Pass Water Agency, as signatories to this MOA.
- J. “Redlands” means the City of Redlands.
- K. “SGMA” refers to the Sustainable Groundwater Management Act.
- L. “SGPWA” means the San Gorgonio Pass Water Agency.
- M. “ST-GSA” refers to the San Timoteo Subbasin GSA formed under this MOA, the members of which GSA are BCVWD, YVWD, Redlands, and SGPWA.
- N. “YVWD” means the Yucaipa Valley Water District.
- V. Boundaries of ST-GSA.** The boundaries of the ST-GSA, as further depicted in **Exhibit B** to this MOA, shall be the entire Basin except the Adjudicated Area of the Basin as further specified in this MOA and that portion of the Basin that lies within the service area of EMWD, wherein EMWD intends to form a separate GSA for that portion of the Basin in accordance with SGMA and without overlapping the boundaries of the ST-GSA as provided in this MOA. The Parties understand and agree that pursuant to SGMA Section 10720.8, the Adjudicated Area of the Basin generally is not subject to the requirements of SGMA and will not be managed by the ST-GSA.
- VI. Coordination and Cooperation**
- A. Continued Cooperation. The Parties to this MOA will continue to meet, confer, coordinate, and collaborate to discuss and develop technical, managerial, financial, and other criteria and procedures for the preparation, governance, and implementation of a GSP or coordinated GSPs in the Basin and to carry out the policy, purposes, and requirements of SGMA in the Basin.

- B. **Points of Contact.** Each Party shall designate a principal contact person for that Party, who may be changed from time to time at the sole discretion of the designating Party. The principal contact person for each Party shall be responsible for coordinating with the principal contact persons for the other Parties in scheduling meetings and other activities under this MOA.
- C. **Management Areas.** The Parties acknowledge that SGMA, and provisions of the SGMA regulations promulgated by DWR, including but not limited to Section 354.20 (23 C.C.R. § 354.20), authorize the establishment of management areas for the development and implementation of sustainable groundwater management within the Basin, and accordingly the Parties acknowledge and agree that the establishment of management areas within the Basin is a governance alternative that the Parties may explore.

## **VII. Roles and Responsibilities**

- A. The Parties agree to jointly establish their roles and responsibilities for implementing a GSP or coordinated GSPs for the Basin in accordance with SGMA.
- B. The Parties agree to work in good faith and coordinate all activities to carry out the purposes of this MOA in implementing the policy, purposes, and requirements of SGMA in the Basin and particularly within the boundaries of the ST-GSA.
- C. BCVWD, YVWD, Redlands, and SGPWA, as members of the ST-GSA, shall coordinate with each other to cause all applicable noticing and submission of required information to DWR regarding formation of the ST-GSA.
- D. As provided in this MOA, the Parties will continue to meet, confer, coordinate, and collaborate to discuss and develop governance, management, technical, financial, and other matters, including respective roles and responsibilities for activities such as, but not limited to, the following: modeling; metering; monitoring; hiring consultants; developing and maintaining list of interested persons under SGMA Section 10723.4; budgeting; and other initial tasks as determined by the Parties.

**VIII. Funding and Budgeting.** The Parties shall mutually develop reasonable budgets and cost sharing agreements or arrangements for work to be undertaken in carrying out SGMA in the Basin.

## **IX. Stakeholders**

- A. The Parties agree to work together in ensuring public outreach and involvement of the public, other interested stakeholders, and other agencies such as EMWD that may be responsible for implementing groundwater sustainability in the Basin throughout the SGMA process, including but not limited to all beneficial uses and users of groundwater as provided in SGMA Section 10723.2.
- B. The Parties acknowledge, agree, and desire that the preparation, adoption, and implementation of one or more GSPs for the Basin, and the ongoing process of ensuring compliance with the requirements of SGMA in the Basin, will involve close coordination and cooperation with stakeholders and other interested parties, including but not limited to those identified in this MOA.

**X. Term, Termination, and Withdrawal**

- A. **Term.** This MOA shall continue and remain in effect unless and until terminated by the unanimous written consent of the Parties, or as otherwise provided in this MOA or as authorized by law.
- B. **Withdrawal.** Any Party may decide, in its sole discretion, to withdraw from this MOA by providing ninety (90) days written notice to the other Parties. A Party that withdraws from this MOA shall remain obligated to pay its share of costs and expenses incurred or accrued under this MOA and any related cost sharing agreement or arrangement up to the date the Party provides its notice of withdrawal as provided herein. Withdrawal by a Party shall not cause or require the termination of this MOA or the existence of the ST-GSA with respect to the non-withdrawing Parties.
1. In the event of withdrawal by BCVWD, YVWD, Redlands, or SGPWA from this MOA and the ST-GSA, the Parties shall meet and confer regarding whether the withdrawing Party wishes to seek GSA status for a portion of the Basin underlying the service area or management area of the withdrawing Party. The Parties also may meet and confer regarding issues such as: (i) whether the ST-GSA, or one or more of the non-withdrawing Parties, wishes to retain GSA status over the affected portion of the Basin; (ii) whether to enter a co-GSA management or other arrangement with the withdrawing Party; and (iii) whether to address the GSA issues in a different manner. Any resolution of such and other GSA issues shall be undertaken in a manner that satisfies all requirements of SGMA and DWR, including any requirement to file new GSA notices.

**XI. Notice Provisions**

All notices required by this MOA shall be made in writing and delivered to the respective representatives of the Parties at their respective addresses as follows:

Beaumont Cherry Valley Water District  
Attn: General Manager  
560 Magnolia Avenue  
Beaumont, California 92223

Yucaipa Valley Water District  
Attn: General Manager  
12770 Second Street  
Yucaipa, California 92399

City of Redlands  
Attn: Municipal Utilities and  
Engineering Director  
35 Cajon Street  
Redlands, California 92373

San Geronio Pass Water Agency  
Attn: General Manager  
1210 Beaumont Avenue  
Beaumont, California 92223

Any Party may change the address to which notices are to be given under this MOA by providing all other Parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change. All notices shall be effective upon receipt and shall be deemed received upon confirmed personal service, confirmed courier service, or on the fifth (5<sup>th</sup>) calendar day following deposit of the notice in registered first class mail.

## XII. General Terms

- A. **Amendments.** Amendments to this MOA require unanimous written consent of all Parties and approval by the Parties' respective governing bodies.
- B. **Successors and Assigns.** The terms of this MOA shall be binding upon all successors in interest and assigns of each Party; provided, however, that no Party shall assign its rights or obligations under this MOA without the signed written consent of all other Parties to this MOA.
- C. **Waiver.** No waiver of any provision of this MOA by any Party shall be construed as a further or continuing waiver of such provision or any other provision of this MOA by the waiving Party or any other Party.
- D. **Authorized Representatives.** Each person executing this MOA on behalf of a Party hereto affirmatively represents that such person has the requisite authority to sign this MOA on behalf of the respective Party.
- E. **Exemption from CEQA.** The Parties recognize and agree that, pursuant to SGMA Section 10728.6 and Public Resources Code Section 21065, neither this MOA nor the preparation or adoption of a GSP constitute a "project" or approval of a project under the California Environmental Quality Act (CEQA) or the State CEQA Guidelines, and therefore this MOA is expressly exempt from CEQA review.
- F. **Governing Law and Venue.** This MOA shall be governed by and construed in accordance with the laws of the State of California. Any suit, action, or proceeding brought under the scope of this MOA shall be brought and maintained to the extent allowed by law in the County of Riverside, California.
- G. **Attorney's Fees, Costs, and Expenses.** In the event of a dispute among any or all of the Parties arising under this MOA, each Party shall assume and be responsible for its own attorney's fees, costs, and expenses.
- H. **Entire Agreement/Integration.** This MOA constitutes the entire agreement among the Parties regarding the specific provisions of this MOA, and the Parties hereto have made no agreements, representations or warranties relating to the specific provisions of this MOA which are not set forth herein.
- I. **Construction and Interpretation.** The Parties agree and acknowledge that this MOA has been developed through a negotiated process among the Parties, and that each Party has had a full and fair opportunity to review the terms of this MOA with the advice of its own legal counsel and to revise the terms of this MOA, such that each Party constitutes a drafting Party to this MOA. Consequently, the Parties understand and agree that no rule of construction shall be applied to resolve any ambiguities against any particular Party as the drafting Party in construing or interpreting this MOA.
- J. **Force Majeure.** No Party shall be liable for the consequences of any unforeseeable force majeure event that (1) is beyond its reasonable control, (2) is not caused by the fault or negligence of such Party, (3) causes such Party to be unable to perform its obligations under this MOA, and (4) cannot be overcome by the exercise of due diligence. In the event of the occurrence of a force majeure event, the Party unable to perform shall promptly notify the other Parties in writing to the extent practicable. It shall further pursue its best efforts to resume its obligations under this MOA as quickly

as possible and shall suspend performance only for such period of time as is necessary as a result of the force majeure event.

- K. Execution in Counterparts. This MOA may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.
- L. No Third Party Beneficiaries. This MOA is not intended, and will not be construed, to confer a benefit or create any right on a third party or the power or right of any third party to bring an action to enforce any of the terms of this MOA.
- M. Timing and Captions. Any provision of this MOA referencing a time, number of days, or period for performance shall be measured in calendar days. The captions of the various articles, sections, and paragraphs of this MOA are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, terms, or intent of this MOA.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

[The remainder of this page has been intentionally left blank.]  
[Signature pages to follow.]



**BEAUMONT CHERRY VALLEY WATER DISTRICT**

By:

President, Board of Directors

Attest:

Secretary, Board of Directors

Approved as to form:

Counsel, Beaumont Cherry Valley Water District

Notices for the Beaumont Cherry Valley Water District shall be sent as follows:

Attention: General Manager  
560 Magnolia Avenue  
Beaumont, California 92223

With copies to:

**CITY OF REDLANDS**

By:

Mayor, City Council

Attest:

Secretary, City Council

Approved as to form:

Counsel, City of Redlands

Notices for the City of Redlands shall be sent as follows:

Attention: Municipal Utilities and Engineering Director  
35 Cajon Street  
Redlands, California 92373

With copies to:

**SAN GORGONIO PASS WATER AGENCY**

By:

President, Board of Directors

Attest:

Secretary, Board of Directors

Approved as to form:

Counsel, San Gorgonio Pass Water Agency

Notices for the San Gorgonio Pass Water Agency shall be sent as follows:

Attention: General Manager  
1210 Beaumont Avenue  
Beaumont, California 92223

With copies to:

**YUCAIPA VALLEY WATER DISTRICT**

By:

President, Board of Directors

Attest:

Secretary, Board of Directors

Approved as to form:

Counsel, Yucaipa Valley Water District

Notices for the San Geronio Pass Water Agency shall be sent as follows:

Attention: General Manager  
12770 Second Street  
Yucaipa, California 92399

With copies to:



## **MEMORANDUM**

**TO:** Board of Directors

**FROM:** General Manager/General Counsel

**RE:** Consideration and possible action to approve request from Beaumont-Cherry Valley Water District for an expansion of Noble Connection to the East Branch Extension

**DATE:** May 15, 2017

### **Summary:**

The Agency delivers water to the Beaumont-Cherry Valley Water District ("BCVWD") and the City of Banning through a connection to the East Branch Extension ("EBX"), known as the Noble Connection, located on Noble Street in Cherry Valley. The existing connection, at the request of BCVWD, was originally designed to convey and meter water to BCVWD at the flow rate of 20 cubic feet per second ("cfs"). The existing connection was completed in 2008.

In November 2016, BCVWD requested that the Agency increase the size of the connection to 34 cfs. Per the Agency's Ordinance 8, such requests must be submitted in the form of an Application and approved by the Board. A copy of Ordinance 8 is included in the agenda package. Unless otherwise mentioned, all "Section" references in this staff report will be to sections of Ordinance 8. The purpose of this proposed Board action is for the Board to consider and potentially approve the Application for a change in service from a 20-cfs connection to a 34-cfs connection.

**Recommendation:**

1. That the Board approve the District's Application subject to BCVWD's compliance with all of the requirements set forth in Ordinance 8 and all requirements for the provision of Agency service to BCVWD.
2. That the Board find that the Noble Connection Expansion is categorically exempt from CEQA pursuant to the Class 1 and Class 3 exemptions and direct staff to have a CEQA Notice of Exemption filed and posted.

**Background**

Pursuant to Section 3.01, an Application for a new connection must include the following information:

1. Identity and legal capacity of the Applicant;
2. Amount, rate, location, time and manner of delivery of the Agency Water;
3. Description of delivery facilities, capacity and flow rates;
4. Review and approval under the California Environmental Quality Act ("CEQA"); and
5. Any further information and/or requirements that may be necessary to evaluate the Application.

The Applicant is required to fund all costs incurred to process the Application and the cost of construction. If approved, the Agency constructs the connection and the connection, along with any flow control facilities required by the Agency, to the downstream flange of the flow control facility meter, shall be the property of the Agency. (Section 3.03)

The Agency General Manager reviews the Application to determine if it is complete prior to consideration by the Board. (Sections 3.01 and 3.02) Pursuant to Section 3.02, the Board has the discretion to deny, approve or conditionally approve the Application. In acting upon an Application, the Board may take into account whether the delivery or

intended use of the Supplemental Water meets the requirements of applicable state, federal and local law or regulation. (Section 3.02)

### **BCVWD's Application**

A copy of BCVWD's Application is included in the agenda package. The Application states that the water purchased through the expanded connection will be for multiple uses, including agricultural uses. Please note that BCVWD elected not to complete the following portions of the Application:

1. Information regarding anticipated requests for service for the next 5 years.
2. Information regarding return flows of water delivered through the expanded connection.

In the past, the Agency received completed Applications from all 3 of the retail agencies, including BCVWD, pursuant to which the Agency currently sells water to these retail agencies. BCVWD was contacted to see if they would be willing to complete the missing information and they declined to do so. In order to move this Application process forward, BCVWD's Application is being submitted for Board consideration as-is.

However, in order to be consistent with the requirements imposed on all water purchasers, it is recommended that any approval of the Application include the condition that BCVWD comply with all requirements for connection and service, regardless of whether BCVWD declines to provide certain information in its Application.

### **Detailed Report:**

#### **Project Description (Operations):**

The proposed project would enlarge the existing Noble Connection from 20 cfs to 34 cfs. The proposed project does not propose to amend any water supply contracts, nor is the Agency aware of any plans by BCVWD to operate their system in a manner that would result in a reasonably foreseeable increase in water supply demand as a result of the proposed Connection. To the contrary, the connection project has been proposed merely to provide BCVWD



with increased operational flexibility in terms of receiving any State Water Project water deliveries that it might already be able to receive from the Agency.

The Agency understands that BCVWD would, as it does today, use any State Water Project water deliveries either to satisfy existing demands or to continue its recharge of the Beaumont Groundwater Basin pursuant to the BCVWD's previously certified Final Environmental Impact Report for its Groundwater Recharge Program. BCVWD's Final EIR specifically anticipated that imported water, such as that from the State Water Project, might be stored within and extracted from the Beaumont Basin. (E.g., Final EIR p. 2-5.)

The District is requesting an increase to 34 cfs, presumably to match the hydraulic capacity of its pipeline delivering water from the connection to its recharge facility.

#### Project Description (Construction):

The proposed connection expansion would involve the replacement of an approximately 150-foot stretch of 20 cfs pipeline with an equivalent length of 34 cfs pipeline. The project would occur on an approximately 0.11 acre site within APN No. 403-090-016, a site that is already owned by the Agency and fully developed with a small prefabricated building, electrical connections, water valves, a meter, and water connections located beneath a small compacted and graveled area immediately adjacent to Noble Street. (See Photographs of site taken December 2017, on file with Agency.)

Construction activities are anticipated to take approximately 20-25 working days, and all construction would occur only during daytime hours, Monday through Friday. Further, all construction and construction equipment would remain within the limits of the existing developed site, and would remain subject to all applicable laws, such as the Migratory Bird Treaties Act. Once constructed, the expanded connection would be operated in the same manner as the existing connection, insofar as it would allow the transfer of State Water Project water from the Agency's system to that of the BCVWD.

## CEQA Compliance:

The Agency – as the public agency who owns the connection and must make the first decision regarding whether to approve any connection expansion – is the lead agency for purposes of CEQA. Other agencies whose approvals may be needed in order to carry out the project include the BCVWD, whose approval would be needed to connect the expanded Connection to the BCVWD system. In addition, standard encroachment and construction-related permits may be required from Riverside County, the Department of Water Resources, and the Santa Ana Regional Water Quality Control Board.

Based on all the information before the Agency, the project is categorically exempt from any further environmental analysis under CEQA pursuant to a Class 1 and/or a Class 3 exemption under State CEQA Guidelines §§ 15301 and 15303. Specifically:

- The Class 1 exemption consists of the operation, repair, and minor alteration of existing public or private structures, facilities, and mechanical equipment “involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” Examples of exempt activities include, but are not limited to, modifications to existing publicly owned facilities used to provide public utility services. Here, although the size of the Connection would increase from 20 cfs to 34 cf, the actual use of the Connection is anticipated to remain the same as that which currently exists. In other words, it is anticipated that there will be negligible or no expansion in the annual volume of water moved through the Connection as a result of the proposed project.
- The Class 3 exemption applies to the construction and location of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modification are made to the exterior of the structure. The Class 3 exemption specifically includes, but is not limited to, water main and other minor utility extensions, like the proposed Connection expansion.

- Finally, there are exceptions identified in State CEQA Guidelines § 15300.2, which can make categorical exemptions inapplicable. However, there is no evidence that any of those exceptions applies. Specifically, Albert A. Webb & Associates, an expert in biological resources and analysis, conducted a site visit to confirm that the site does not contain, and that construction will not result in impacts to, any habitat for wildlife; that no special status species were found or are likely to be found on the site or be impacted by the project's construction; that no riparian or other sensitive vegetative communities exist on the site or are likely to be affected by the project's construction; and that the project will not be located within nor indirectly impact any streambed, wetland, or jurisdictional water. (See Biological Resources Assessment (2017).) Accordingly, the project will not result in potentially significant impacts due to a sensitive environmental conditions. Further, the site is not located on a scenic highway, nor is the site on any hazard waste site list compiled pursuant to Government Code section 65962.5. Finally, no other projects are proposed for this site, such that there is no potential for any significant cumulative effect resulting from the impact of successive projects of the same type in the same place, over time.

**Fiscal Impact:**

There is no fiscal impact to the Agency of approving the application and authorizing construction. Under Ordinance 8, BCVWD is required to reimburse the Agency for all costs associated with planning, design, and construction of the enlarged connection.

**Attachments:**

- BCVWD's Application for Noble Connection Expansion
- Albert A. Webb and Associates, Biological Resources Assessment and Technical Memorandum (2017)
- Ordinance 8



# Beaumont-Cherry Valley Water District

Phone: (909) 845-9581 Fax: (951) 845-0159

Email [info@bcvwd.org](mailto:info@bcvwd.org)

<http://www.bcvwd.org>

November 10, 2016

## Board of Directors

David Hoffman  
Division 5

John Covington  
Division 4

Daniel Slawson  
Division 3

Nathan Douglass  
Division 2

Jeffrey Cottrell  
Division 1

Jeff Davis, General Manager  
San Gorgonio Pass Water Agency  
1210 Beaumont Avenue  
Beaumont, CA 92223

Subject: Noble Creek East Branch Extension Connection  
Request for connection modification to 34 cfs minimum flow rate

Dear Mr. Davis:

By action of the BCWWD Board of Directors on November 9, 2016, the District desires to move forward with the necessary modifications to the Noble Creek Connection indicated as Scenario 4 in the Technical Memorandum by Armstrong & Brooks dated July 27, 2016.

Enclosed is the above-referenced application concerning the specific pipeline project described. Please note that we have redacted the portion of the second to last paragraph of the application which purports to dedicate return flows from state project water served for beneficial use by BCWWD to elimination of overdraft which may be required by the Court or Watermaster in a cited superior court case dealing with the Beaumont Basin. The redaction occurred because our District respectfully disagrees with the principle that your agency may allocate those return flows, or that a Court or Watermaster could do so in a way which does not conform to current California law. In that regard, in *City of Santa Maria v. Adam*, 211 Cal. App. 4th 266, at p. 302 et seq, the Court of Appeals made it clear that the retail water supplier which pays for the state project water imported for use is the entity entitled to produce the return flows from the initial beneficial use of that water to the extent that those return flows provide a net benefit to the basin in question. In addition, we are not aware of the Court or Watermaster dealing with the Beaumont Basin requiring an allocation of return flows which differs from the legal principle stated in the Santa Maria case.

The District currently has funds on account for this project. Once SGPWA has provided a cost estimate for each subsequent phase, the District will provide the necessary funds to proceed. Please feel free to contact me at (951) 845-9581, ext. 225 with any questions related to this project.

Sincerely,

Eric Fraser  
BCWWD  
General Manager



**San Geronio Pass Water Agency**  
**APPLICATION FOR SGPWA WATER SERVICE**  
**IN ACCORDANCE WITH SGPWA ORDINANCE NO. 8**

1. **APPLICANT NAME:** Beaumont-Cherry Valley Water District \_\_\_\_\_

2. **LEGAL CAPACITY:**

Public Agency (enabling law): CA W ~~ter~~ Code \_\_\_\_\_  
 \_\_\_\_\_ Public Utility (enabling law): \_\_\_\_\_  
 \_\_\_\_\_ Mutual Water Company \_\_\_\_\_ PUC Regulated Water Company  
 \_\_\_\_\_ Private Water Company \_\_\_\_\_ Partnership \_\_\_\_\_ Individual  
 \_\_\_\_\_ Limited Liability Company (State): \_\_\_\_\_  
 \_\_\_\_\_ Corporation (type and State): \_\_\_\_\_

3. **TYPE OF USE:**

Municipal  Industrial  Agriculture  Recreation  
 Ground Water Recharge  Other \_\_\_\_\_ in accordance with BCVWD Rules and Regulations

4. **QUANTITY and FLOW RATES:**

Maximum Flow Rate (cfs) \_\_\_\_\_ Minimum Flow Rate (cfs) 34

FIRST YEAR QUANTITY REQUESTED BY MONTH FOR (Acre-Feet)

|           |            |            |            |
|-----------|------------|------------|------------|
| January:  | 34 cfs min | July:      | 34 cfs min |
| February: | " "        | August:    | " "        |
| March:    | " "        | September: | " "        |
| April:    | " "        | October:   | " "        |
| May:      | " "        | November:  | " "        |
| June:     | " "        | December:  | " "        |

TOTAL ANNUAL QUANTITY FIRST YEAR: TBD

YEARS 2 through 5 ANNUAL QUANTITY (acre feet) :

2<sup>ND</sup>: TBD 3<sup>RD</sup>: TBD 4<sup>TH</sup>: TBD 5<sup>TH</sup>: TBD

**STAFF USE ONLY**

\_\_\_\_ First Application \_\_\_\_ Renewal Application Assigned to: \_\_\_\_\_

Date Accepted: \_\_\_\_\_ Board Hearing Date: \_\_\_\_\_

Staff Recommendation: \_\_\_\_\_

Environmental Finding: \_\_\_\_ Exempt \_\_\_\_ De Minimus \_\_\_\_ Negative Declaration

\_\_\_\_ Mitigated Negative Declaration \_\_\_\_ EIR

**5. LOCATION OF USE** (indicate all areas where SGPWA water will be used):

- Township, Range, Section, ¼ ¼: BCVWD Service Area
- Assessors Parcel Number: \_\_\_\_\_

**6. FACILITIES CONSTRUCTION** (describe all physical facilities that will be constructed as a result of this application, including specific connections to SGPWA owned facilities—attach design preliminary design if available): Modification to existing connection serving the Noble Creek Recharge Facility removing existing undersized pipeline and 16-inch meter bottleneck between EBX and the 24-inch diameter BCVWD transmission line generally as described as Scenario 4 Upgrade in the Armstrong & Brooks Technical Memorandum dated July 27, 2016.

**7. LOCATION OF DELIVERY** (indicate where connection will be made to SGPWA system):

- Township, Range, Section, ¼ \_\_\_\_\_
- Assessors Parcel Number: \_\_\_\_\_
- SGPWA Pipeline Station if known Existing Noble Creek Connection Noble Street

**8. TREATMENT** (describe water treatment facilities (if any) that will be used for the purpose of use intended by the applicant): TBD

**9. ACKNOWLEDGMENT BY APPLICANT:**

Applicant acknowledges and agrees to the following by signature below:

- SGPWA water service will at all times be in accordance with SGPWA Ordinance No. 8, and any other rules and regulations as may be amended, adopted or mandated by the SGPWA Board of Directors or any entity of the State of California. SGPWA water service is wholesale in nature. Due to the annual variable nature of the SGPWA water supply, SGPWA water deliveries shall not constitute a vested right to a fixed amount of SGPWA water each year or to any specific level of pressure.
- SGPWA water service shall be subject to all of the terms and conditions of SGPWA's SWP contract with DWR, including delivery interruption by reason of DWR and/or SGPWA's requirements for maintenance and operation of its facilities or by reason of demand in excess of SGPWA's Table A Amount. SGPWA water is raw and untreated, and SGPWA makes no representation as its quality with respect to suitability for any particular purpose.

- Applicant agrees to fund all costs that result from processing this application and/or from construction of facilities required to provide the service requested, including but not limited to: environmental review; circulation of the application for review by the public; engineering analysis and design; and, construction of related physical facilities. The applicant will deposit sufficient funds with the SGPWA prior to expense being incurred by SGPWA. SGPWA shall develop a reasonable estimate of costs prior to execution of any contract and shall obtain consent from BCVWD prior to expenditure of funds.
- Applicant agrees to pay charges for SGPWA water delivered at established SGPWA rates within 30 days after SGPWA invoice. The Applicant shall not use the water delivered by SGPWA outside of SGPWA. ~~Return flows from water delivered by SGPWA for use in the Beaumont Storage Unit are dedicated to overdraft elimination uses that may be required by the Riverside County Superior Court or the Court appointed Watermaster in the case of San Timoteo Watershed Management Authority v. City of Banning et al (Riverside County Superior Court Case No. RIC-989197).~~
- Applicant agrees to defend, indemnify and hold harmless SGPWA, its directors, officers, agents and employees from and against any and all claims, demands, losses, costs, expenses, liability and damages, including but not limited to reasonable engineers' and attorneys' fees, arising out of or related to (i) the control carriage, handling, use, disposal, or distribution of water delivered by SGPWA after the point of delivery; (ii) the attachment to or removal of Applicant's facilities to those of SGPWA; and (iii) the environmental review and approval for this Application. This covenant to defend, indemnify and hold harmless shall survive the termination of SGPWA's water service to Applicant.

BCVWD

Applicant



Signature

ERIC FRASER

Printed Name

G.M.

Title

10 NOV 2010

Date



## Technical Memorandum

To: Jeff Davis, General Manger, San Gorgonio Pass Water Agency

From: Jillian Feyk-Miney, Assistant Environmental Analyst  
Jessica May, Assistant Environmental Analyst

Date: January 16, 2017

Re: Biological Resources Assessment, Noble Connection, Cherry Valley, County of Riverside, California

The following biological assessment was prepared to evaluate the potential biological impacts associated with the implementation of the Noble Connection Project. This report incorporates the findings of a literature review, compilation of existing documentation, and a field reconnaissance survey conducted on January 10, 2017.

### ▪ Project Description

The proposed Project is located on an approximately 0.11-acre site in Cherry Valley, County of Riverside, California. The Project Site is located in Western Riverside County and is located on the U.S. Geological Survey (USGS) 7.5' series Beaumont Quadrangle, Township 2 South, Range 1 West, Section 27. Specifically, the proposed Project is located within a portion of APN 403-090-016. The existing site is generally devoid of vegetation and consists of an above-ground structure related to the water facilities, three underground vaults, yard piping, and no fencing around the property. The Project site is shown on **Figure 1 – Project Area**.

The Project proposes expansion of the existing subsurface water connection from 20 cubic foot per second (cfs) to 35 cfs. The expansion will include replacing the existing yard piping with new, larger piping, and to replace the valves and meters in the two existing underground vaults. The vaults, themselves will not be replaced, only modified.

The proposed Project is within an urbanized area and adjacent to Noble Creek. Noble Creek is a small ephemeral wash which has been armored with concrete on the bank adjacent to the Project site. Adjacent properties include paved streets and single-family residential areas with ornamental vegetation. See Appendix A – Site Photos for photographs depicting the existing conditions of the study area.

### ▪ Site Resource Evaluations

WEBB biologists conducted an analysis of biological resources present within the Project study area by reviewing pertinent literature and evaluating field conditions during the reconnaissance survey. The following section summarizes methods used to identify and evaluate sensitive biological resources that have potential to occur within the study area.



## Vegetation Community and Land Cover Types

Vegetation communities and land cover types present within the 0.11-acre study area were evaluated and delineated on a map during the field reconnaissance surveys. An aerial photograph with an overlay of the Project site was utilized to map the vegetation communities and record any special-status species observations or other sensitive biological resources while in the field (**Figure 2**).

## Federally-Listed Species and Sensitive Resources

Special-status biological resources present or potentially present within the study area were identified through a literature search using the U.S. Fish and Wildlife Service (USFWS) Information, Planning and Conservation (IPaC) Trust Resources Report<sup>1</sup> (Appendix B). Suitable habitat for these species was verified in the field.

## Western Riverside County Multiple Species Habitat Conservation Plan

The Riverside County Integrated Project (RCIP) Conservation Summary Report Generator<sup>2</sup> was reviewed to ensure compliance with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) (Appendix C).

### ▪ Results

## Vegetation Community and Land Cover Types

One land cover type was documented within the Project site (**Figure 2**). The Project site consists of developed/disturbed habitat. The Project site is devoid of vegetation and contains an above-ground structure, underground vaults, and piping (Appendix A – Photos 1 through 4). Noble Creek is adjacent to the Project site to the east and exhibits signs of scouring, common in wash habitats, and contains concrete on the bank adjacent to the Project site (Appendix A – Photo 5). Noble Creek is outside of the Project footprint. Single-family residential areas with ornamental vegetation are also adjacent to the Project site (Appendix A – Photo 6).

## Federally-Listed Species and Sensitive Resources

Following review of the IPaC search, species were eliminated from consideration when the study area was clearly outside the known geographic range of the species, or if the study area did not contain habitat characteristics required by the species. Species habitat information was accessed from NatureServe Explorer Species Reports<sup>3</sup>.

### Special-Status Plants

According to the IPaC search, no federally-listed plants may occur or could potentially be affected by activities in this location. Additionally, the Project site is developed/disturbed and devoid of vegetation.

### Special-Status Wildlife

According to the IPaC search, six federally-listed wildlife species may occur or could potentially be affected by activities in this location.

Based on the field reconnaissance surveys of the Project site, suitable habitat for federally-listed bird species including coastal California gnatcatcher (*Poliptila californica californica*), least Bell's vireo (*Vireo bellii pusillus*), and southwestern willow flycatcher (*Empidonax traillii extimus*) do not appear to be present due to lack of habitat present. The proposed Project site is outside the designated critical

<sup>1</sup> <https://ecos.fws.gov/ipac/>

<sup>2</sup> [http://onlineservices.rctlma.org/content/rcip\\_report\\_generator.aspx](http://onlineservices.rctlma.org/content/rcip_report_generator.aspx)

<sup>3</sup> <http://explorer.natureserve.org/index.htm>

habitat for these species, and the Project site is developed/disturbed and devoid of vegetation. Additionally, the adjacent Noble Creek does not represent suitable habitat for these species.

Riverside fairy shrimp (*Streptocephalus woottoni*) does not appear to be present. The proposed Project site is outside the designated critical habitat for this species, and vernal pools, vernal swales, alkali scalds or flats, or other seasonal wet habitats were not identified within the Project area. A rain event had occurred the day prior to the field visit and no standing water was present on-site.

Based on the field reconnaissance surveys of the Project site, suitable habitat for federally-listed mammal species including San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*) and Stephen's kangaroo rat (*Dipodomys stephensi* (incl. *D. Cascus*)) do not appear to be present. The proposed Project site is outside the designated critical habitat for these species, and the Project site does not contain suitable burrows.

The absence of appropriate habitat conditions and extent of prior development and ground disturbance likely precludes any special-status wildlife species from occurring within the study area.

No federally-listed animals were detected during the field reconnaissance survey. However, all native birds in California are protected by the federal Migratory Bird Treaty Act (MBTA) of 1918. A list of migratory birds that could potentially be affected by activities in this location can be found in Appendix B.

### **Western Riverside County Multiple Species Habitat Conservation Plan**

The proposed Project is within the MSHCP Pass Area Plan. The Project is not located within any MSHCP designated Criteria Areas or Subunits. As such, the Project is not subject to Cell Criteria compliance under the MSHCP which means it does not have to contribute land to the Reserve. The Project site does not fall within any Public/Quasi-Public (PQP) or other MSHCP Conserved Lands. The proposed Project is also not within any Amphibian Species, Burrowing Owl, Criteria Area Species, Mammalian Species, Narrow Endemic Plant Species or Special Linkage Areas and does not require additional surveys.

Section 6.1.2 of the MSHCP defines Riparian/Riverine areas as "lands which contain habitat dominated by trees, shrubs, persistent emergent, or emergent mosses and lichens, which occur close to or which depend on soil moisture from a nearby freshwater source; or areas with fresh water during all or a portion of the year. Riparian/Riverine areas as defined by the MSHCP are not present within the Project site. Noble Creek, adjacent to the Project site contains Riparian/Riverine areas; however, these areas are outside of the Project footprint and will not be affected by implementation of the proposed Project.

Vernal pools, vernal swales, alkali scalds or flats, or other seasonal wet habitats were not identified within the Project area. A rain event had occurred the day prior to the field visit and no standing water was present on-site.

### **▪ Recommendations**

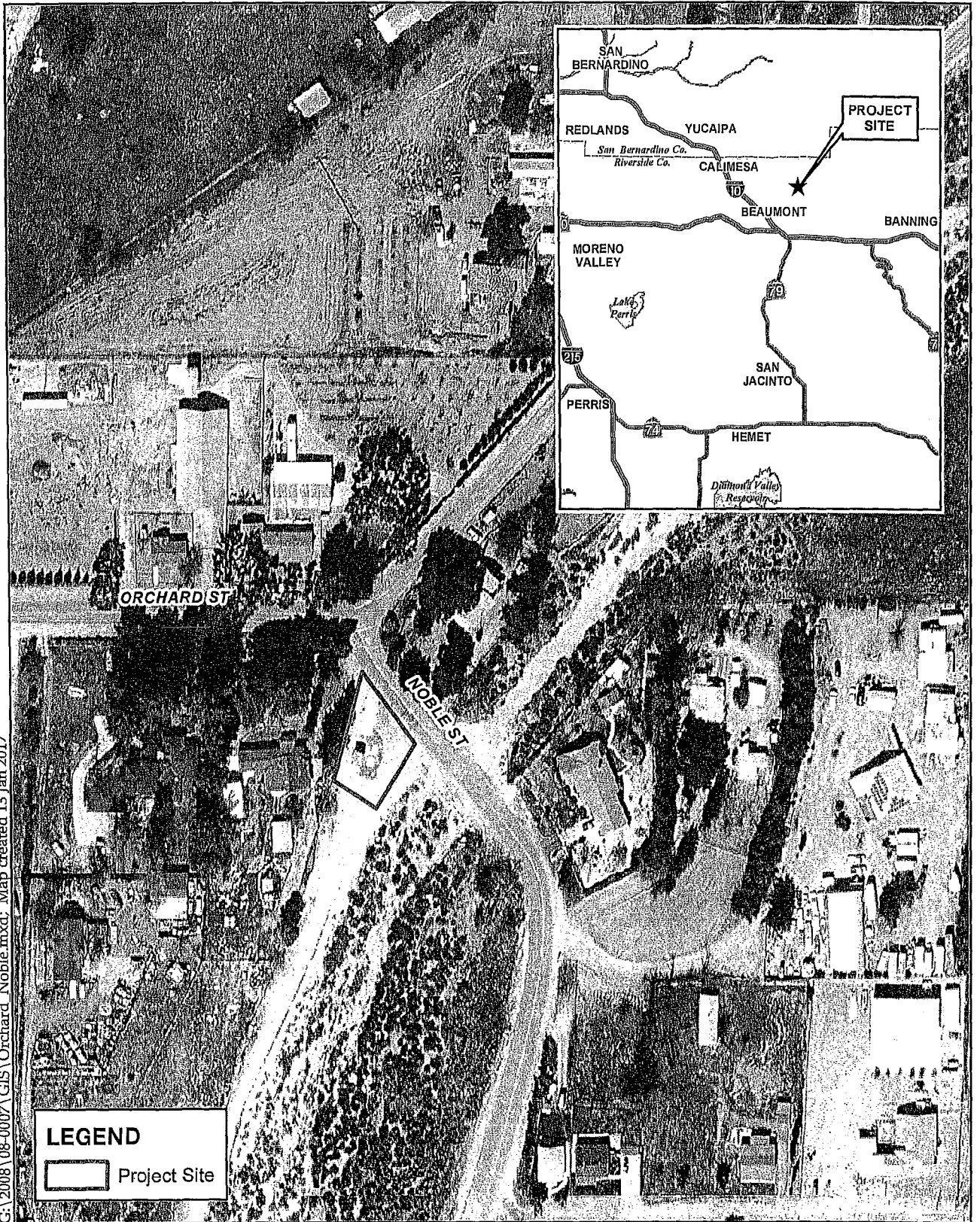
*The following is recommended to avoid potential impacts to birds that could use the site or surrounding area from Project construction:*

- All projects require compliance with the federal Migratory Bird Treaty Act (MBTA). In order to comply with the MBTA, construction outside the nesting season (between September 16th and January 31<sup>st</sup>) do not require pre-removal nesting bird surveys. If construction is proposed between February 1st and September 15th, a qualified biologist must conduct a nesting bird survey(s) no more than fourteen (14) days prior to initiation of grading to document the presence or absence of nesting birds within 50 / 89 adjacent (100 feet) to the Project site. If any active

nests are found, a suitable buffer will be determined by the biologist and the nest will be flagged and avoided until the eggs have hatched and the chicks have fledged.

▪ **Conclusion**

The conclusion of this analysis indicates that the proposed Project site is free of any suitable habitat for federally-listed or other sensitive species. The project will need to comply with the MBTA as stated above in the recommendations. Should you have any questions, please contact one of us at (951) 686-1070 or email at [jillian.feyk-miney@webbassociates.com](mailto:jillian.feyk-miney@webbassociates.com) or [jessica.may@webbassociates.com](mailto:jessica.may@webbassociates.com).



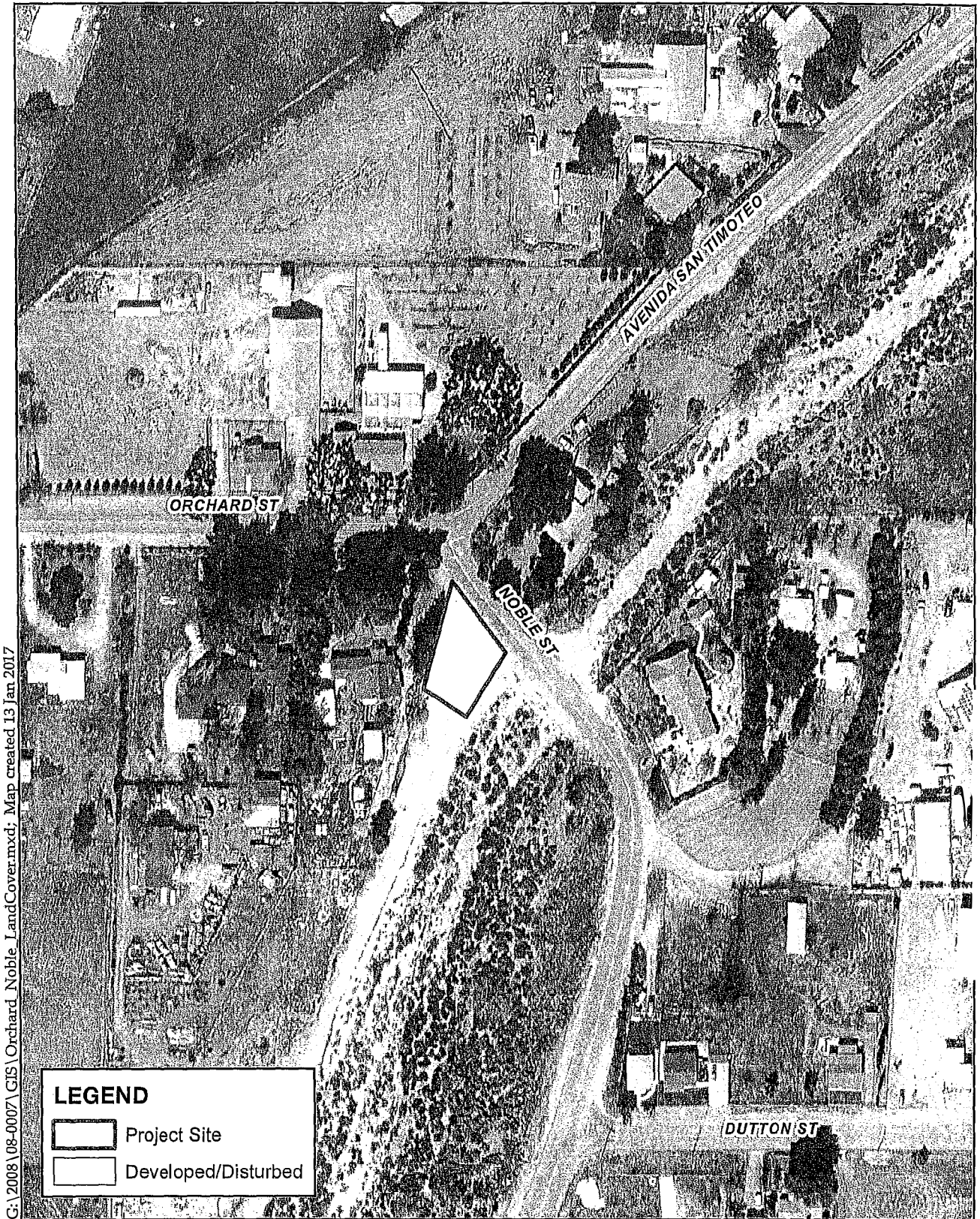
G:\2008\08-0007\GIS\Orchard\_Noble.mxd; Map created 13 Jan 2017

Sources: Riverside Co. GIS, 2017;  
USDA NAIP, 2014.

**Figure 1 - Project Site**  
Noble Connection Project



0 100 200 300 Feet

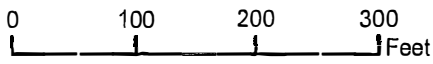


C:\2008\08-0007\GIS\Orchard\_Noble\_LandCover.mxd; Map created 13 Jan 2017

Sources: Riverside Co. GIS, 2017;  
USDA NAIP, 2014.

**Figure 2 - Project Site Vegetation Community and Land Cover Types**

Noble Connection Project



## Appendix A – Site Photos

Noble Connection Project – Site Photos

January 10, 2017

Photo 1. Project site, facing south.



Photo 2. Structure and vaults, facing south.

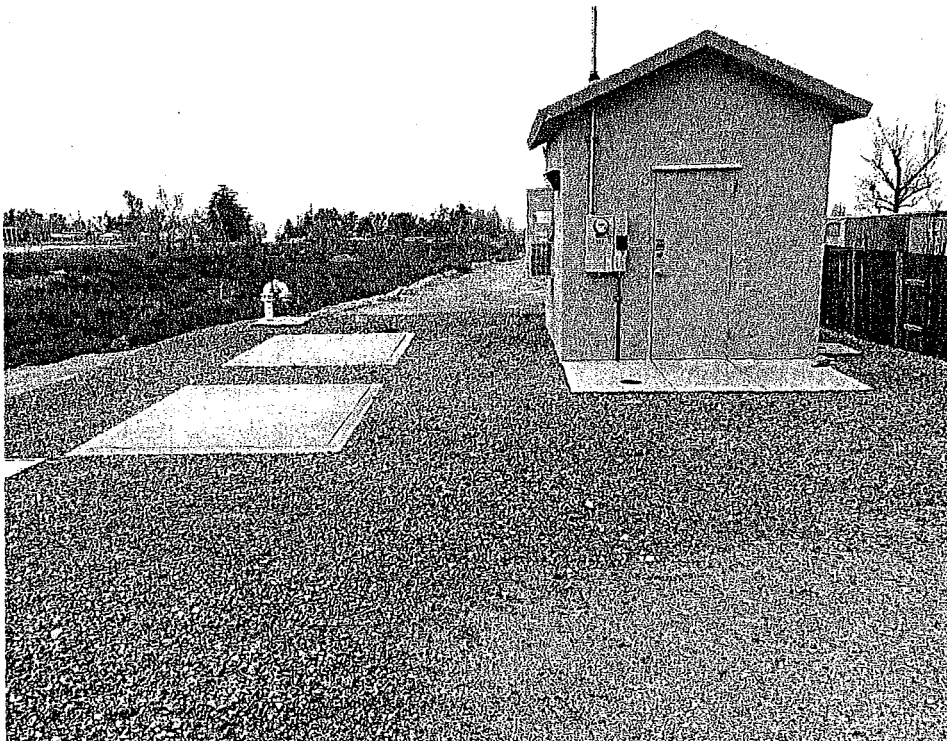




Photo 3. Project site, facing north.



Photo 4. Project site, facing northwest.



Photo 5. Ornamental trees adjacent to Project site, facing west.

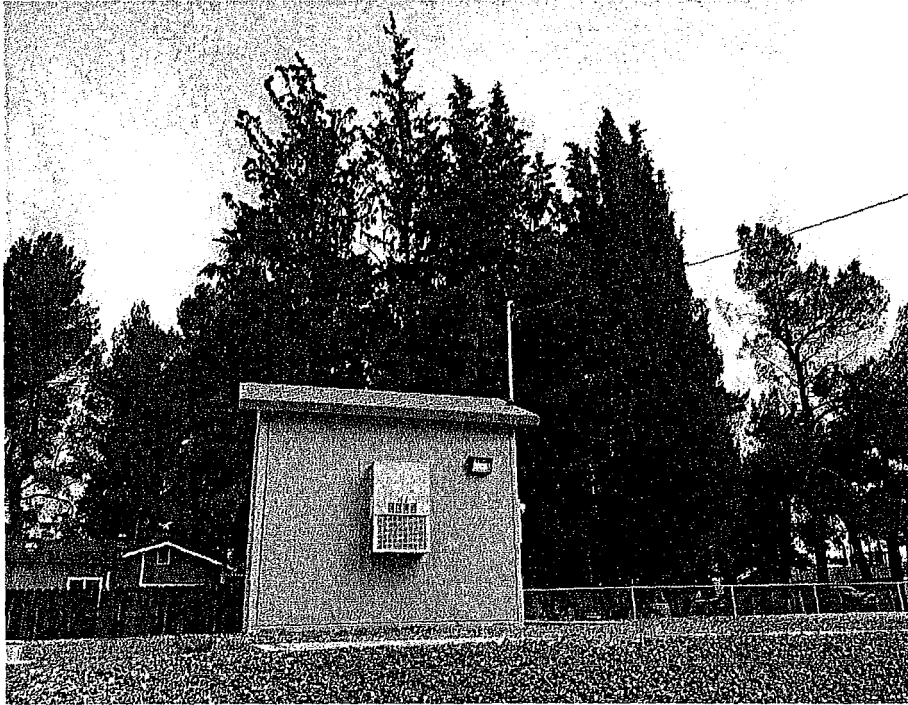


Photo 6. Noble Creek, adjacent to Project site, facing southeast.



## Appendix B – IpaC Trust Resources Report

**IPaC**

# IPaC resource list

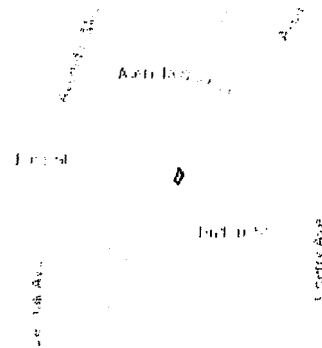
## Project information

## NAME

Noble Connection

## LOCATION

Riverside County, California



## Local office

Carlsbad Fish And Wildlife Office

☎ (760) 431-9440

📠 (760) 431-5901

2177 Salk Avenue - Suite 250  
Carlsbad, CA 92008-7385<http://www.fws.gov/carlsbad/>

## Endangered species

This resource list is for informational purposes only and should not be used for planning or analyzing project level impacts.

Section 7 of the Endangered Species Act **requires** Federal agencies to *"request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action"* for any project that is conducted, permitted, funded, or licensed by any Federal agency.

**A letter from the local office and a species list which fulfills this requirement can only be obtained by requesting an official species list either from the Regulatory Review section in IPaC or from the local field office directly.**

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by creating a project and making a request from the Regulatory Review section.

Listed species<sup>1</sup> are managed by the Endangered Species Program of the U.S. Fish and Wildlife Service.

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information.

The following species are potentially affected by activities in this location:

### Birds

NAME

60 / 89

STATUS

|   |            |
|---|------------|
| Coastal California Gnatcatcher <i>Polioptila californica californica</i><br>There is a final critical habitat designated for this species. Your location is outside the designated critical habitat.<br><a href="http://ecos.fws.gov/ecp/species/8178">http://ecos.fws.gov/ecp/species/8178</a> | Threatened |
| Least Bell's Vireo <i>Vireo bellii pusillus</i><br>There is a final critical habitat designated for this species. Your location is outside the designated critical habitat.<br><a href="http://ecos.fws.gov/ecp/species/5945">http://ecos.fws.gov/ecp/species/5945</a>                          | Endangered |
| Southwestern Willow Flycatcher <i>Empidonax traillii extimus</i><br>There is a final critical habitat designated for this species. Your location is outside the designated critical habitat.<br><a href="http://ecos.fws.gov/ecp/species/6749">http://ecos.fws.gov/ecp/species/6749</a>         | Endangered |

## Crustaceans

| NAME  | STATUS     |
|---|------------|
| Riverside Fairy Shrimp <i>Streptocephalus woottoni</i><br>There is a final critical habitat designated for this species. Your location is outside the designated critical habitat.<br><a href="http://ecos.fws.gov/ecp/species/8148">http://ecos.fws.gov/ecp/species/8148</a> | Endangered |

## Mammals

| NAME  | STATUS     |
|---|------------|
| San Bernardino Merriam's Kangaroo Rat <i>Dipodomys merriami parvus</i><br>There is a final critical habitat designated for this species. Your location is outside the designated critical habitat.<br><a href="http://ecos.fws.gov/ecp/species/2060">http://ecos.fws.gov/ecp/species/2060</a> | Endangered |
| Stephens' Kangaroo Rat <i>Dipodomys stephensi</i> (incl. <i>D. cascus</i> )<br>No critical habitat has been designated for this species.<br><a href="http://ecos.fws.gov/ecp/species/3495">http://ecos.fws.gov/ecp/species/3495</a>   | Endangered |

## Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

## Migratory birds

Birds are protected under the Migratory Bird Treaty Act<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

Any activity that results in the take (to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) of migratory birds or eagles is prohibited unless authorized by the U.S. Fish and Wildlife Service<sup>3</sup>. There are no provisions for allowing the take of migratory birds that are unintentionally killed or injured.

Any person or organization who plans or conducts activities that may result in the take of migratory birds is responsible for complying with the appropriate regulations and implementing appropriate conservation measures.

1. The Migratory Birds Treaty Act of 1918.
2. The Bald and Golden Eagle Protection Act of 1940.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/m61/89-anaged-species/birds-of-conservation-concern.php>

- Conservation measures for birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Year-round bird occurrence data <http://www.birdscanada.org/birdmon/default/datasummaries.jsp>

The migratory birds species listed below are species of particular conservation concern (e.g. Birds of Conservation Concern) that may be potentially affected by activities in this location, not a list of every bird species you may find in this location. Although it is important to try to avoid and minimize impacts to all birds, special attention should be made to avoid and minimize impacts to birds of priority concern. To view available data on other bird species that may occur in your project area, please visit the [AKN Histogram Tools and Other Bird Data Resources](#).

| NAME   | SEASON(S)  |
|--|------------|
| Bald Eagle <i>Haliaeetus leucocephalus</i><br><a href="http://ecos.fws.gov/ecp/species/1626">http://ecos.fws.gov/ecp/species/1626</a>                    | Wintering  |
| Bell's Sparrow <i>Amphispiza belli</i><br><a href="http://ecos.fws.gov/ecp/species/9303">http://ecos.fws.gov/ecp/species/9303</a>                        | Year-round |
| Bell's Vireo <i>Vireo bellii</i><br><a href="http://ecos.fws.gov/ecp/species/9507">http://ecos.fws.gov/ecp/species/9507</a>                              | Breeding   |
| Black-chinned Sparrow <i>Spizella atrogularis</i><br><a href="http://ecos.fws.gov/ecp/species/9447">http://ecos.fws.gov/ecp/species/9447</a>             | Breeding   |
| Brewer's Sparrow <i>Spizella breweri</i><br><a href="http://ecos.fws.gov/ecp/species/9291">http://ecos.fws.gov/ecp/species/9291</a>                      | Year-round |
| Burrowing Owl <i>Athene cucularia</i><br><a href="http://ecos.fws.gov/ecp/species/9737">http://ecos.fws.gov/ecp/species/9737</a>                         | Year-round |
| Cactus Wren <i>Campylorhynchus brunneicapillus</i><br><a href="http://ecos.fws.gov/ecp/species/8834">http://ecos.fws.gov/ecp/species/8834</a>            | Year-round |
| California Spotted Owl <i>Strix occidentalis occidentalis</i><br><a href="http://ecos.fws.gov/ecp/species/7266">http://ecos.fws.gov/ecp/species/7266</a> | Year-round |
| Calliope Hummingbird <i>Stellula calliope</i><br><a href="http://ecos.fws.gov/ecp/species/9526">http://ecos.fws.gov/ecp/species/9526</a>                 | Breeding   |
| Costa's Hummingbird <i>Calypte costae</i><br><a href="http://ecos.fws.gov/ecp/species/9470">http://ecos.fws.gov/ecp/species/9470</a>                     | Breeding   |
| Flammulated Owl <i>Otus flammeolus</i><br><a href="http://ecos.fws.gov/ecp/species/7728">http://ecos.fws.gov/ecp/species/7728</a>                        | Breeding   |
| Fox Sparrow <i>Passerella iliaca</i>   | Year-round |
| Le Conte's Thrasher <i>Toxostoma lecontei</i><br><a href="http://ecos.fws.gov/ecp/species/8969">http://ecos.fws.gov/ecp/species/8969</a>                 | Year-round |
| Least Bittern <i>Ixobrychus exilis</i><br><a href="http://ecos.fws.gov/ecp/species/6175">http://ecos.fws.gov/ecp/species/6175</a>                        | Year-round |
| Lewis's Woodpecker <i>Melanerpes lewis</i><br><a href="http://ecos.fws.gov/ecp/species/9408">http://ecos.fws.gov/ecp/species/9408</a>                    | Wintering  |
| Loggerhead Shrike <i>Lanius ludovicianus</i><br><a href="http://ecos.fws.gov/ecp/species/8833">http://ecos.fws.gov/ecp/species/8833</a>                  | Year-round |
| Long-billed Curlew <i>Numenius americanus</i><br><a href="http://ecos.fws.gov/ecp/species/5511">http://ecos.fws.gov/ecp/species/5511</a>                 | Wintering  |

|   |            |
|---|------------|
| Mountain Plover <i>Charadrius montanus</i><br><a href="http://ecos.fws.gov/ecp/species/3638">http://ecos.fws.gov/ecp/species/3638</a>           | Wintering  |
| Nuttall's Woodpecker <i>Picoides nuttallii</i><br><a href="http://ecos.fws.gov/ecp/species/9410">http://ecos.fws.gov/ecp/species/9410</a>       | Year-round |
| Oak Titmouse <i>Baeolophus inornatus</i><br><a href="http://ecos.fws.gov/ecp/species/9656">http://ecos.fws.gov/ecp/species/9656</a>             | Year-round |
| Olive-sided Flycatcher <i>Contopus cooperi</i><br><a href="http://ecos.fws.gov/ecp/species/3914">http://ecos.fws.gov/ecp/species/3914</a>       | Breeding   |
| Peregrine Falcon <i>Falco peregrinus</i><br><a href="http://ecos.fws.gov/ecp/species/8831">http://ecos.fws.gov/ecp/species/8831</a>             | Wintering  |
| Pinyon Jay <i>Gymnorhinus cyanocephalus</i><br><a href="http://ecos.fws.gov/ecp/species/9420">http://ecos.fws.gov/ecp/species/9420</a>          | Year-round |
| Rufous-crowned Sparrow <i>Aimophila ruficeps</i><br><a href="http://ecos.fws.gov/ecp/species/9718">http://ecos.fws.gov/ecp/species/9718</a>     | Year-round |
| Short-eared Owl <i>Asio flammeus</i><br><a href="http://ecos.fws.gov/ecp/species/9295">http://ecos.fws.gov/ecp/species/9295</a>                 | Wintering  |
| Western Grebe <i>Aechmophorus occidentalis</i><br><a href="http://ecos.fws.gov/ecp/species/6743">http://ecos.fws.gov/ecp/species/6743</a>       | Wintering  |
| White Headed Woodpecker <i>Picoides albolarvatus</i><br><a href="http://ecos.fws.gov/ecp/species/9411">http://ecos.fws.gov/ecp/species/9411</a> | Year-round |
| Williamson's Sapsucker <i>Sphyrapicus thyroideus</i><br><a href="http://ecos.fws.gov/ecp/species/8832">http://ecos.fws.gov/ecp/species/8832</a> | Wintering  |

What does IPaC use to generate the list of migratory bird species potentially occurring in my specified location?

#### Landbirds:

Migratory birds that are displayed on the IPaC species list are based on ranges in the latest edition of the National Geographic Guide, *Birds of North America* (6th Edition, 2011 by Jon L. Dunn, and Jonathan Alderfer). Although these ranges are coarse in nature, a number of U.S. Fish and Wildlife Service migratory bird biologists agree that these maps are some of the best range maps to date. These ranges were clipped to a specific Bird Conservation Region (BCR) or USFWS Region/Regions, if it was indicated in the 2008 list of Birds of Conservation Concern (BCC) that a species was a BCC species only in a particular Region/Regions. Additional modifications have been made to some ranges based on more local or refined range information and/or information provided by U.S. Fish and Wildlife Service biologists with species expertise. All migratory birds that show in areas on land in IPaC are those that appear in the 2008 Birds of Conservation Concern report.

#### Atlantic Seabirds:

Ranges in IPaC for birds off the Atlantic coast are derived from species distribution models developed by the National Oceanic and Atmospheric Association (NOAA) National Centers for Coastal Ocean Science (NCCOS) using the best available seabird survey data for the offshore Atlantic Coastal region to date. NOAA/NCCOS assisted USFWS in developing seasonal species ranges from their models for specific use in IPaC. Some of these birds are not BCC species but were of interest for inclusion because they may occur in high abundance off the coast at different times throughout the year, which potentially makes them more susceptible to certain types of development and activities taking place in that area. For more refined details about the abundance and richness of bird species within your project area off the Atlantic Coast, see the Northeast Ocean Data Portal. The Portal also offers data and information about other types of taxa that may be helpful in your project review.

About the NOAA/NCCOS models: the models were developed as part of the NOAA/NCCOS project: Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf. The models resulting from this project are being used in a number of decision-support/mapping products in order to help guide decision-making on activities off the Atlantic Coast with the goal of reducing impacts to migratory birds. One such product is the Northeast Ocean Data Portal, which can be used to explore details about the relative occurrence and abundance of bird species in a particular area off the Atlantic Coast.

All migratory bird range maps within IPaC are continuously being updated as new and better information becomes available.

Can I get additional information about the levels of occurrence in my project area of specific birds or groups of birds listed in IPaC?

#### Landbirds:

The Avian Knowledge Network (AKN) provides a tool currently called the "Histogram Tool", which draws from the data within the AKN (latest, survey, point count, citizen science datasets) to create a view of relative abundance of species within a particular location over the course of the year. The results of the tool depict the frequency of detection of a species in survey events, averaged between multiple datasets within AKN in a particular week of the year. You may access the histogram tools through the [Migratory Bird Programs AKN Histogram Tools](#) webpage.

The tool is currently available for 4 regions (California, Northeast U.S., Southeast U.S. and Midwest), which encompasses the following 32 states: Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

In the near future, there are plans to expand this tool nationwide within the AKN, and allow the graphs produced to appear with the list of trust resources generated by IPaC, providing you with an additional level of detail about the level of occurrence of the species of particular concern potentially occurring in your project area throughout the course of the year.

#### Atlantic Seabirds:

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAANCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

## Facilities

### Wildlife refuges and fish hatcheries

REFUGE AND FISH HATCHERY INFORMATION IS NOT AVAILABLE AT THIS TIME

## Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local U.S. Army Corps of Engineers District.

THERE ARE NO KNOWN WETLANDS AT THIS LOCATION.

#### Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

#### Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercled worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

#### Data precautions



Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this Inventory. There is no attempt, in either the design or products of this Inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

## Appendix C – RCIP Conservation Summary Report

Riverside County Transportation and Land Management Agency - TLMA



# Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)

| APN       | Cell       | Cell Group  | Acres | Area Plan | Sub Unit   |
|-----------|------------|-------------|-------|-----------|------------|
| 403090016 | Not A Part | Independent | 1.54  | The Pass  | Not a Part |

## Background

The final MSHCP was approved by the County Board of Supervisors on June 17, 2003. The federal and state permits were issued on June 22, 2004 and implementation of the MSHCP began on June 23, 2004.

For more information concerning the MSHCP, contact your local city or the County of Riverside for the unincorporated areas. Additionally, the Western Riverside County Regional Conservation Authority (RCA), which oversees all the cities and County implementation of the MSHCP, can be reached at:

Western Riverside County Regional Conservation Authority  
3403 10th Street, Suite 320  
Riverside, CA 92501

Phone: 951-955-9700  
Fax: 951-955-8873

[www.wrc-rca.org](http://www.wrc-rca.org)

## Introduction

As urbanization has increased within western Riverside County, state and federal regulations have required that public and private developers obtain "Take permits" from Wildlife Agencies for impacts to endangered, threatened, and rare species and their Habitats. This process, however, has resulted in costly delays in public and private Development projects and an assemblage of unconnected Habitat areas designated on a project-by-project basis. This piecemeal and uncoordinated effort to mitigate the effects of Development does not sustain wildlife mobility, genetic flow, or ecosystem health, which require large, interconnected natural areas.

A variety of capitalized terms are used in this report. Definitions for those terms are provided at the end of this report.

MSHCP is one element of the Riverside County Integrated Project (RCIP), a comprehensive regional planning effort begun in 1999. The purpose of the RCIP is to integrate all aspects of land use, transportation, and conservation planning and implementation in order to develop a comprehensive vision for the future of the County. The overall goal of the MSHCP is rooted in the RCIP Vision Statement and supporting policy directives. The MSHCP will enhance maintenance of biological diversity and ecosystem processes while allowing future economic growth. Preserving a quality of life characterized by well-managed and well-planned growth integrated with an open-space system is a component of the RCIP vision. The MSHCP proposes to conserve approximately 500,000 acres and 146 different species. Approximately 347,000 acres are anticipated to be conserved on existing Public/Quasi-Public Lands, with additional contributions on approximately 153,000 acres from willing sellers. The overall goal of the MSHCP can be supported by the following:

**Biological Goal:** In the MSHCP Plan Area, conserve Covered Species and their Habitats.

**Economic Goal:** Improve the future economic development in the County by providing an efficient, streamlined regulatory process through which Development can proceed in an efficient way. The MSHCP and the General Plan will provide the County with a clearly articulated blueprint describing where future Development should and should not occur.

**Social Goal:** Provide for permanent open space, community edges, and recreational opportunities, which contribute to maintaining the community character of Western Riverside County.

This report has been generated to summarize the guidance in the MSHCP Plan that pertains to this property. Guidelines have been incorporated in the MSHCP Plan to allow applicants to evaluate the application of the MSHCP Criteria within specific locations in the MSHCP Plan Area. Guidance is provided through Area Plan Subunits, Cell Criteria, Cores and Linkages and identification of survey requirements. The guidance and Criteria incorporate flexibility at a variety of levels. The information within this report is composed of three parts: a summary table, Reserve Assembly guidance and survey requirements within the MSHCP Plan Area. The summary table provides specific information on this property to help determine whether it is located within the MSHCP Criteria Area or any survey areas. The Reserve Assembly guidance provides direction on assembly of the MSHCP Conservation Area if the property is within the Criteria Area. The survey requirements section describes the surveys that must be conducted on the property if Habitat is present for certain identified species within the Criteria Area or mapped survey areas.

### **Reserve Assembly Guidance within the Criteria Area**

The Reserve Assembly guidance only pertains to properties that are within the Criteria Area. Please check the summary table to determine whether this property is within the Criteria Area. If it is located inside of the Criteria Area, please read both this section and the section about survey requirements within the MSHCP Plan Area. If the property is located outside the Criteria Area, only read the survey requirements within the MSHCP Plan Area section.

The Area Plan Subunits, Cell Criteria and Cores and Linkages provide guidance on assembly of the MSHCP Conservation Area. The Area Plan Subunits section lists Planning Species and Biological Issues and Considerations that are important to Reserve Assembly within a specific Area Plan Subunit. The Cell Criteria identify applicable Cores or Linkages and describe the focus of desired conservation within a particular Cell or Cell Group. Cores and Linkages guidance includes dimensional data and biological considerations within each identified Core or Linkage.

The following is the Area Plan text and Cell Criteria that pertains specifically to this property. The Area Plan text includes the target acreage for conservation within the entire Area Plan, identification of Cores and Linkages within the entire Area Plan and Area Plan Subunit Planning Species and Biological Issues and Considerations. It is important to keep in mind that the Area Plan Subunits, Cell Criteria and Cores and Linkages are drafted to provide guidance for a geographic area that is much larger than an individual property. The guidance is intended to provide context for an individual property and, therefore, all of the guidance and Criteria do not apply to each individual property.

## **The Pass Area Plan**

This section identifies target acreages, applicable Cores and Linkages, Area Plan Subunits and Criteria for The Pass Area Plan. For a summary of the methodology and map resources used to develop the target acreages and Criteria for the MSHCP Conservation Area, including this Area Plan, see Section 3.3.1.

### **Target Acreages**

The target conservation acreage range for The Pass Area Plan is 22,510 – 27,895 acres; it is composed of approximately 13,970 acres of existing Public/Quasi-Public Lands and 8,540 – 13,925 acres of Additional Reserve Lands. The City of Banning, City of Beaumont, and City of Calimesa sit entirely within The Pass Area Plan. The target acreage range within the City of Banning is 50 – 90 acres. The target acreage range within the City of Beaumont is 5,440 – 9,060 acres. The target acreage range within the City of Calimesa is 1,240 – 2,240 acres. The target acreages of the three Cities are included within the 8,540 – 13,925 acre target conservation range on Additional Reserve Lands for the entire The Pass Area Plan.

### **• Applicable Cores and Linkages**

The MSHCP Conservation Area comprises a variety of existing and proposed Cores, Linkages, Constrained Linkages and Noncontiguous Habitat Blocks (referred to here generally as "Cores and Linkages"). The Cores and Linkages listed below are within The Pass Area Plan. For descriptions of these Cores and Linkages and more information about the biologically meaningful elements of the MSHCP Conservation Area within The Pass Area Plan, see Section 3.2.3, and MSHCP Volume II, Section A.

### **Cores and Linkages within The Pass Area Plan**

- Contains the Proposed Constrained Linkage 22
- Contains the Proposed Constrained Linkage 23
- Contains a portion of Proposed Core 3
- Contains a portion of Proposed Linkage 6
- Contains Proposed Linkage 12
- Contains a portion of Existing Core I
- Contains a portion of Existing Core K
- Contains a portion of Existing Noncontiguous Habitat Block B

Descriptions of Planning Species, Biological Issues and Considerations and Criteria for each Area Plan Subunit within The Pass Area Plan are presented later in this section. These descriptions, combined with the descriptions of the Cores and Linkages referred to above, provide information about biological issues to be considered in conjunction with Reserve Assembly within The Pass Area Plan. As noted in Section 3.1, the Area Plan boundaries established as part of the Riverside County General Plan were selected to provide an organizational framework for the Area Plan Subunits and Criteria. While these boundaries are not biologically based, unlike the Cores and Linkages, they relate specifically to General Plan boundaries and the jurisdictional boundaries of incorporated Cities and were selected to facilitate implementation of the MSHCP in the context of existing institutional and planning boundaries.

### **• Area Plan Subunits**

The Pass Area Plan is divided into three Subunits. For each Subunit, target conservation acreages are established along with a description of the Planning Species, Biological Issues and Considerations, and Criteria for each Subunit. For more information regarding specific conservation objectives for the Planning Species, see Section 9.0. Subunit boundaries are depicted on the Cells and Cell Groupings map displays (Figures 3-20 and 3-21). Table 3-11 presents the Criteria for The Pass Area Plan.

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## Cell Criteria

A preliminary check indicates that this parcel is not subject to cell criteria under the draft MSHCP. Other requirements, including species surveys, may apply under the plan. It is recommended that you review the full text of the draft document for additional details. See [www.rcip.org](http://www.rcip.org) to read the document on-line or to find a location to view the hard copy document.

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## Surveys Within the MSHCP Plan Area

Of the 146 species covered by the MSHCP, no surveys will be required by applicants for public and private projects for 106 of these Covered Species. Covered Species for which surveys may be required by applicants for public and private Development projects include 4 birds, 3 mammals, 3 amphibians, 3 crustaceans, 14 Narrow Endemic Plants, and 13 other sensitive plants within the Criteria Area. Of these 40 species, survey area maps are provided for 34 species, and surveys will be undertaken within suitable Habitat areas in locations identified on these maps in the MSHCP Plan. The remaining six species are associated with riparian/riverine areas and vernal pools and include least Bell's vireo, southwestern willow flycatcher, western yellow-billed cuckoo, Riverside fairy shrimp, Santa Rosa Plateau fairy shrimp, and vernal pool fairy shrimp. Although there are no survey area maps for these six species, surveys for these species, if necessary, will be undertaken as described below. It is the goal of the MSHCP to provide for conservation of Covered Species within the approximately 500,000 acre MSHCP Conservation Area (comprised of approximately 347,000 acres of existing Public/Quasi-Public Lands and 153,000 acres of new conservation on private lands). Conservation that may be identified to be desirable as a result of survey findings is not intended to increase the overall 500,000 acres of conservation anticipated under the MSHCP. Please refer to Section 6.0 of the MSHCP Plan, Volume I for more specific information regarding species survey requirements.

As projects are proposed within the MSHCP Plan Area, an assessment of the potentially significant effects of those projects on riparian/riverine areas and vernal pools will be performed as currently required by the California Environmental Quality Act (CEQA) using available information augmented by project-specific mapping. If the mapping identifies suitable habitat for any of the six species associated with riparian/riverine areas and vernal pools listed above and the proposed project design does not incorporate avoidance of the identified habitat, focused surveys for these six species will be conducted, and avoidance and minimization measures will be implemented in accordance with the species-specific objectives for these species. For more specific information regarding survey requirements for species associated with riparian/riverine areas and vernal pools, please refer to Section 6.1.2 of the MSHCP Plan, Volume I.

Habitat conservation is based on the particular Habitat requirements of each species as well as the known distribution data for each species. The existing MSHCP database does not, however, provide the level of detail sufficient to determine the extent of the presence or distribution of Narrow Endemic Plant Species within the MSHCP Plan Area. Since conservation planning decisions for these plant species will have a substantial effect on their status, additional information regarding the presence of these plant species must be gathered during the long-term implementation of the MSHCP to ensure that appropriate conservation of the Narrow Endemic Plants occurs. For more specific information regarding survey requirements for Narrow Endemic Plants, please refer to Section 6.1.3 of the MSHCP Plan, Volume I.

In addition to the Narrow Endemic Plant Species, additional surveys may be needed for certain species in conjunction with Plan implementation in order to achieve coverage for these species. The MSHCP must meet the Federal Endangered Species Act issuance criteria for Habitat Conservation Plans (HCP) which require, among other things, that the HCP disclose the impacts likely to result from the proposed Taking, and measures the applicant will undertake to avoid, minimize and mitigate such impacts. For these species in which coverage is sought under the MSHCP, existing available information is not sufficient to make findings necessary to satisfy these issuance criteria for Take authorization. Survey requirements are incorporated into the HCP to provide the level of information necessary to receive coverage for these species in the MSHCP.

Efforts have been made prior to approval of the MSHCP and will be made during the early baseline studies to be conducted as part of the MSHCP management and monitoring efforts to collect as much information as possible regarding the species requiring additional surveys. As data are collected and conclusions can be made regarding the presence of occupied Habitat within the MSHCP Conservation Area for these species, it is anticipated that survey requirements may be modified or waived. Please refer to Sections 6.1.3 and 6.3.2 of the MSHCP Plan, Volume I for more specific information regarding survey requirements.

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## MSHCP DEFINITIONS

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| <b>Adaptive Management</b>         | To use the results of new information gathered through the Monitoring Program of the Plan and from other sources to adjust management strategies and practices to assist in providing for the Conservation of Covered Species.  |
| <b>Adaptive Management Program</b> | The MSHCP's program of Adaptive Management described in Section 5.0 of the MSHCP, Volume I.   |
| <b>Additional Reserve Lands</b>    | Conserved Habitat totaling approximately 153, 000 acres that are needed to meet the goals and objectives of the MSHCP and comprised of approximately 56, 000 acres of State and federal acquisition and mitigation for State Permittees, and approximately 97, 000 acres contributed by Local Permittees (Lands acquired since February 3, 2000 are included in the Local Permittees' Additional Reserve Lands contribution pursuant to correspondence discussed in Section 4.0 of the MSHCP, Volume I and on file with the County of Riverside)  |
| <b>Agriculture</b>                 | For the species analyses, references to agriculture refer to the Vegetation Community, Agriculture, as depicted on the MSHCP Vegetation Map, Figure 2- 1 of the MSHCP, Volume I.  |
| <b>Agricultural Operations</b>     | The production of all plants (horticulture), fish farms, animals and related production activities, including the planting, cultivation and tillage of the soil, dairying, and apiculture; and the production, plowing, seeding, cultivation, growing, harvesting, pasturing and fallowing for the purpose of crop rotation of any agricultural commodity, including viticulture, apiculture, horticulture, and the breeding, feeding and raising of livestock, horses, fur-bearing animals, fish, or poultry, the operation, management, conservation, improvement or maintenance of a farm or ranch and its buildings, tools and equipment; the construction, operation and maintenance of ditches, canals, reservoirs, wells and/or waterways used for farming or ranching purposes and all uses conducted as a normal part of such Agricultural Operations; provided such actions are in compliance with all applicable laws and regulations. The definition of Agricultural Operations shall not include any activities on state and federal property or in the MSHCP Conservation Area. |
| <b>Allowable Uses</b>              | Uses allowed within the MSHCP Conservation Area as defined in Section 7.0 of the MSHCP, Volume I.   |
| <b>Annual Report</b>               | The reports prepared pursuant to the requirements of Section 6.11 of the MSHCP, Volume I.   |
| <b>Area Plan</b>                   | A community planning area defined in the County of Riverside General Plan. Sixteen County of Riverside Area Plans are located within the MSHCP Plan Area.   |
| <b>Area Plan Subunit</b>           | A portion of an Area Plan for which Biological Issues and Considerations and target acreages have been specified in Section 3.3 of the MSHCP, Volume I.   |
| <b>Biological Issues and</b>       | A list of biological factors to be used by participants in assembly of the MSHCP Conservation Area. Biological Issues and Considerations are identified for each Area Plan Subunit in Section 3.3 of the MSHCP,   |

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| <b>Considerations</b>                                    | Volume I.   |
| <b>Biologically Equivalent or Superior Determination</b> | Documentation that a particular project alternative will be biologically equivalent or superior to a project consistent with the guidelines and thresholds established in the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP, policies for the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the MSHCP, Additional Survey Needs and Procedures policies set forth in Section 6.3.2 of the MSHCP, and the Criteria Refinement Process set forth in Section 6.5 of the MSHCP. |
| <b>Biological Monitoring Program</b>                     | The program detailing the requirements for monitoring of the MSHCP Conservation Area as set forth in Section 5.3 of the MSHCP, Volume I.  |
| <b>Biological Monitoring Report</b>                      | Reports prepared pursuant to the requirements of Section 5.3.7 of the MSHCP, Volume I.  |
| <b>Bioregion</b>   | A generalized area with similar elevation, topography, soils and floristic characteristics within the MSHCP Plan Area. Seven Bioregions are identified in the MSHCP Plan Area and are depicted in Figure 2-6 of the MSHCP, Volume I.  |
| <b>California Department of Fish and Game</b>            | CDFG, a department of the California Resources Agency.  |
| <b>California Department of Transportation</b>           | Caltrans, a department of the California Business, Transportation and Housing Agency.   |
| <b>Cell</b>  | A unit within the Criteria Area generally 160 acres in size, approximating one quarter section.   |
| <b>Cell Group</b>  | An identified grouping of Cells within the Criteria Area.   |
| <b>California Environmental Quality Act</b>              | CEQA (California Public Resources Code, Section 21000 et seq.) and all guidelines promulgated thereunder, as amended. For the MSHCP, the County shall be the lead agency under CEQA as defined under State CEQA Guidelines section 15367.   |
| <b>California Endangered Species Act</b>                 | CESA (California Fish and Game code, Section 2050 et seq.) and all rules, regulations and guidelines promulgated thereunder, as amended.  |
| <b>Changed Circumstances</b>                             | Changes in circumstances affecting a Covered Species or the geographic area covered by the MSHCP that can reasonably be anticipated by the Parties and that can reasonably be planned for in the MSHCP. Changed Circumstances and the planned responses to those circumstances are more particularly described in Section 11.4 of the IA, and Section 6.8 of the MSHCP, Volume I. Changed Circumstances do not include Unforeseen Circumstances.  |
| <b>Cities</b>  | The cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, and Temecula, collectively.   |
| <b>Community and</b>                                     | CETAP, a process overseen by RCTC   |



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| <b>Environmental Transportation Acceptability Process</b> | corridors designed to relieve current traffic congestion and provide for the County's and the Cities' future transportation and communication needs.   |
| <b>Conceptual Reserve Design</b>                          | A reserve concept developed for purposes of providing quantitative parameters for MSHCP species analyses, MSHCP Conservation Area description and target acreages within Area Plan Subunits. The Conceptual Reserve Design is intended to describe one way in which the Additional Reserve Lands could be assembled consistent with MSHCP Criteria.  |
| <b>Conservation</b>                                       | To use, and the use of, methods and procedures within the MSHCP Conservation Area and within the Plan Area as set forth in the MSHCP Plan, that are necessary to bring any listed species to the point at which the measures provided pursuant to FESA and the California Fish and Game Code are no longer necessary. However, Permittees will have no duty to enhance, restore or revegetate MSHCP Conservation Area lands unless required by the MSHCP Plan or agreed to through implementation of the Plan. |
| <b>Conservation Strategy</b>                              | The overall approach to assure conservation of individual species within the MSHCP Plan Area; for each individual species, the Conservation Strategy is comprised of four elements: (1) a global conservation goal; (2) global conservation objectives; (3) species-specific conservation objectives that are measurable; and (4) management and monitoring activities.  |
| <b>Conserved Habitat</b>                                  | Land that is permanently protected and managed in its natural state for the benefit of the Covered Species under legal arrangements that prevent its conversion to other land uses, and the institutional arrangements that provide for its ongoing management.  |
| <b>Constrained Linkage</b>                                | A constricted connection expected to provide for movement of identified Planning Species between Core Areas, where options for assembly of the connection are limited due to existing patterns of use.   |
| <b>Cooperative Organizational Structure</b>               | The local administrative structure for Implementation and management of the MSHCP, as set forth in Section 6.6 of the MSHCP, Volume I.   |
| <b>Core Area</b>  | A block of Habitat of appropriate size, configuration, and vegetation characteristics to generally support the life history requirements of one or more Covered Species.   |
| <b>Corridor</b>   | Refers to the alignment area or footprint for manmade linear projects such as transportation facilities, pipelines and utility lines. Corridor does not have a biological meaning in the MSHCP lexicon.  |
| <b>County</b>   | County of Riverside  |
| <b>County Flood Control</b>                               | Riverside County Flood Control and Water Conservation District   |
| <b>County Parks</b>                                       | Riverside County Regional Parks and Open Space District  |
| <b>County Waste</b>                                       | Riverside County Waste Management District   |
| <b>Covered Activities</b>                                 | Certain activities carried out or conducted by Permittees, Participating Special Entities, Third Parties Granted Take Authorization and others within t 7 3 / 8 9 Plan Area, and described in Section 7 of the MSHCP, Volume I, that will receive Take Authorization under the Section 10(a) Permit and the NCCP Permit, provided these  |

activities are otherwise lawful.

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| <b>Covered Species</b>                      | The current 146 species within the MSHCP Plan Area that will be conserved by the MSHCP when the MSHCP is implemented. These species are discussed in Section 2.1.4 of the MSHCP, Volume I, and listed in Exhibit C to the IA and Section 9.2 of the MSHCP, Volume I.   |
| <b>Covered Species Adequately Conserved</b> | The initial 118 Covered Species and any of the remaining 28 Covered Species where the species objectives, set forth in Section 9.2 of the MSHCP, Volume I and Table 9-3, are met and which are provided Take Authorization through the NCCP Permit and for animals through the Section 10(a) Permit issued in conjunction with the IA. These species are discussed in Section 2.1.4 of the MSHCP, Volume I, and listed in Exhibit "D" to the IA and Section 9.2 of the MSHCP, Volume I.  |
| <b>Criteria</b>                             | Descriptions provided for individual Cells or Cell Groups within the Criteria Area to guide assembly of the Additional Reserve Lands.  |
| <b>Criteria Area</b>                        | The area comprised of Cells depicted on Figure 3-1 of the MSHCP, Volume I.   |
| <b>Criteria Refinement Process</b>          | The process through which changes to the Criteria may be made, where the refined Criteria result in the same or greater Conservation value and acreage to the MSHCP Conservation Area as determined through an equivalency analysis provided in support of the refinement.   |
| <b>Critical Habitat</b>                     | Habitat for species listed under FESA that has been designated pursuant to Section 4 of FESA and identified in 50 C.F.R. §§ 17.95 and 17.96.   |
| <b>Development</b>                          | The uses to which land shall be put, including construction of buildings, structures, infrastructure and all alterations of the land.  |
| <b>Discretionary Project</b>                | A proposed project requiring discretionary action or approval by a Permittee, as that term is used in CEQA and defined in State CEQA Guidelines section 15357, including issuance of a grading permit for County projects.   |
| <b>Edge Effects</b>                         | Adverse direct and indirect effects to species, Habitats and Vegetation Communities along the natural urban/wildlands interface. May include predation by mesopredators (including native and non-native predators), invasion by exotic species, noise, lighting, urban runoff and other anthropogenic impacts (trampling of vegetation, trash and toxic materials dumping, etc.).   |
| <b>Effective Date</b>                       | Date on which the IA takes effect, as set forth in Section 19.1 of the IA.   |
| <b>Endangered Species</b>                   | Those species listed as endangered under FESA and CESA.  |
| <b>Environmental Laws</b>                   | Includes state and federal laws governing or regulating the impact of development activities on land, water or biological resources as they relate to Covered Species, including but not limited to CESA, FESA, the NCCP Act, CEQA, the National Environmental Policy Act ("NEPA"), the federal Migratory Bird Treaty Act ("MBTA"), the Fish and Wildlife Coordination Act, the Fish and Wildlife Act of 1956, the Federal Water Pollution Control Act (33 U.S.C., Section 1251 et seq.), the Native Plant Protection Act (California Fish and Game Code, Section 1900 et seq. and Sections 1801, 1802, 3511, 4700, 5050 and 5515) and includes any regulations promulgated pursuant to such laws. |

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| <b>Executive Director</b>                        | Director of the Regional Conservation Authority  |
| <b>Existing Agricultural Operations</b>          | Those lands within the MSHCP Plan Area that are actively used for ongoing Agricultural Operations, as further defined in Section 11.3 of the IA and Section 6.2 of the MSHCP, Volume I.  |
| <b>Existing Agricultural Operations Database</b> | The database created by the County to identify Existing Agricultural Operations, as further defined in Section 11.3 of the IA.   |
| <b>Federal Endangered Species Act</b>            | FESA (16 U.S.C., Section 1531 et seq.) And all rules and regulations promulgated thereunder, as amended.   |
| <b>Feasible</b>                                  | Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.  |
| <b>Funding Coordination Committee</b>            | A committee formed by the Regional Conservation Authority Board of Directors to provide input on local funding priorities and Additional Reserve Land acquisitions.  |
| <b>Habitat</b>                                   | The combination of environmental conditions of a specific place providing for the needs of a species or a population of such species.  |
| <b>HabiTrak</b>                                  | A GIS application to provide data on Habitat loss and Conservation which occurs under the Permits.   |
| <b>Implementing Agreement</b>                    | The executed agreement that implements the terms and conditions of the MSHCP.  |
| <b>Incidental Take (also see Take)</b>           | Take of Covered Species Adequately Conserved incidental to and not the purpose of, an otherwise lawful activity, including, but not limited to, Take resulting from modification of Habitat as defined in FESA and its implementing regulations.   |
| <b>Independent Science Advisors</b>              | The qualified biologists, conservation experts and others that may be appointed by the Regional Conservation Authority Executive Director to provide scientific input to assist in the implementation of the MSHCP for the benefit of the Covered Species, as set forth in Section 6.6.7 of the MSHCP, Volume I. |
| <b>Linkage</b>                                   | A connection between Core Areas with adequate size, configuration and vegetation characteristics to generally provide for "Live-In" Habitat and/or provide for genetic flow for identified Planning Species.   |
| <b>Live-In Habitat</b>                           | Habitat that contains the necessary components to support key life history requirements of a species; e.g., year-round Habitat for permanent residents or breeding Habitat for migrant species.  |
| <b>Local Development Mitigation Fee</b>          | The fee imposed by applicable Local Permittees on new development pursuant to Government Code Section 66000 et seq.  |
| <b>Local Permittees</b>                          | The Regional Conservation Authority, the County, County Flood Control, County Parks, County Waste, RCTC and the Cities.  |

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| <b>Locality(ies)</b>                                | An area with multiple occurrences of a species based on the MSHCP species occurrence data base or literature citations as noted in individual species accounts.   |
| <b>Long-Term Stephens' Kangaroo Rat</b>             | The Long-Term SKR HCP in Western Riverside County dated Habitat Conservation Plan. March 1996, more particularly described in Section 16.2 of the IA.   |
| <b>Maintenance Activities</b>                       | Those Covered Activities that include the on going maintenance of public facilities as described in Section 7.0 of the MSHCP, Volume I.   |
| <b>Major Amendments</b>                             | Those proposed amendments to the MSHCP and the IA as described in Section 20.5 of the IA and Section 6.10 of the MSHCP, Volume I.   |
| <b>Management Unit</b>                              | Broad areas planned to be consolidated for overall unified management of the MSHCP Conservation Area. Five management units have been defined and are depicted in Figure 5-1 of the MSHCP, Volume I.  |
| <b>Migratory Bird Treaty Act</b>                    | Federal MBTA (16 U.S.C., Section 702 et seq.) and all rules and regulations promulgated thereunder, as amended.   |
| <b>Migratory Bird Treaty Special Purpose Permit</b> | Act A permit issued by the USFWS under 50 Code of Federal Regulations, section 21.27, authorizing Take under the MBTA of the Covered Species Adequately Conserved listed as endangered or threatened under FESA in connection with the Covered Activities.                          |
| <b>Ministerial Approvals</b>                        | Certain City approvals involving little or no judgement by the City prior to issuance but that could have adverse impacts to Covered Species and their habitat.   |
| <b>Minor Amendments</b>                             | Minor changes to the MSHCP and the IA as defined in Section 20.4 of the IA and Section 6.10 of the MSHCP, Volume I.   |
| <b>Mitigation Lands</b>                             | Subset of Additional Reserve Lands totaling approximately 103, 000 acres, comprised of approximately 97, 000 acres contributed by Local Permittees, and approximately 6, 000 acres contributed by State Permittees.   |
| <b>Monitoring Program</b>                           | The monitoring programs and activities set forth in Section 5.3 of the MSHCP, Volume I.   |
| <b>Monitoring Program Administrator</b>             | The individual or entity responsible for administering the Monitoring Program, as described in Section 5.0 of the MSHCP, Volume I.  |
| <b>MSHCP Conservation Area</b>                      | Approximately 500, 000 acres comprised of approximately 347, 000 acres of Public/Quasi-Public Lands and approximately 153, 000 acres of Additional Reserve Lands within Western Riverside County. The MSHCP Conservation Area provides for the conservation of the Covered Species. |
| <b>MSHCP Plan Area</b>                              | The boundaries of the MSHCP, consisting of an approximate 1, 966 square-mile area in Western Riverside County, as depicted in Figure 1-2 of the MSHCP Plan, Volume I, and Exhibit B of the IA.  |
| <b>Multiple Species Habitat</b>                     | Western Riverside County Multiple Species Habitat Conservation  |

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| <b>Conservation Plan (MSHCP)</b>         | Plan, a comprehensive habitat conservation planning program that addresses multiple species' needs, including Habitat, and the preservation of native vegetation in Western Riverside County, as depicted in Figure 3-1 of the MSHCP Plan, Volume I, and Exhibit A of the IA.   |
| <b>NCCP Act</b>                          | California Natural Community Conservation Planning Act (California Fish and Game Code, Section 2800 et seq.) including all regulation promulgated thereunder, as amended.   |
| <b>NCCP Permit</b>                       | The Permit issued in accordance with the IA by CDFG under the NCCP Act to permit the Take of identified species, including rare species, species listed under CESA as threatened or endangered, a species that is a candidate for listing, and unlisted species.  |
| <b>National Environmental Policy Act</b> | NEPA (42 U.S.C., Section 4321-4335) and all rules, regulations promulgated thereunder, as amended. For the purposes of the MSHCP, USFWS is the lead agency under NEPA as defined in 40 Code of Federal Regulations section 1508.16.   |
| <b>Narrow Endemic Plant Species</b>      | Plant species that are highly restricted by their Habitat affinities, edaphic requirements or other ecological factors, and for which specific conservation measures have been identified in Section 6.1.3 of the MSHCP, Volume I.  |
| <b>New Agricultural Lands</b>            | The acreage converted to Agricultural Operations after the Effective Date of the IA, as described in Section 11.3 of the IA and Section 6.2 of the MSHCP, Volume I.   |
| <b>New Agricultural Lands Cap</b>        | A designated maximum number of acres of New Agricultural Land within the Criteria Area, as described in Section 11.3 of the IA and Section 6.2 of the MSHCP, Volume I.  |
| <b>No Surprises Assurance</b>            | Provided Permittees are implementing the terms and conditions of MSHCP, the IA, and the Permit(s), the USFWS can only require additional mitigation for Covered Species Adequately Conserved beyond that provided for in the MSHCP as a result of Unforeseen Circumstances in accordance with the "No Surprises" regulations at 50 Code of Federal Regulations sections 17.22(b)(5) and 17.32(b)(5) and as discussed in Section 6.8 of the MSHCP, Volume I. |
| <b>Non-contiguous Habitat Block</b>      | A block of Habitat not connected to other Habitat areas via a Linkage or Constrained Linkage.   |
| <b>Other Species</b>                     | Species that are not identified as Covered Species under the MSHCP.   |
| <b>Participating Special Entity</b>      | Any regional public facility provider, such as a utility company or a public district or agency, that operates and/or owns land within the MSHCP Plan Area and that applies for Take Authorization pursuant to Section 11.8 of the IA.  |
| <b>Party and Parties</b>                 | The signatories to the IA, namely the Regional Conservation Authority, the County, County Flood Control, County Parks, County Waste, RCTC, the Cities, Caltrans, State Parks, USFWS and CDFG and any other city within the Plan Area that incorporates after the Effective Date and complies with Section 11.6 of the IA.   |
| <b>Permit(s)</b>                         | Collectively, the Section 10(a) Permit and NCCP Permit issued by the Wildlife Agencies to Permittees for Take of Covered Species Adequately Conserved pursuant to FESA, CESA and the NCCP Act and in conformance with the MSHCP and the IA.   |

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| <b>Permittees</b>                                 | The Regional Conservation Authority, the County, County Flood Control, County Parks, County Waste, RCTC, the Cities, Caltrans and State Parks.  |
| <b>Plan Area</b>                                  | See "MSHCP Plan Area."  |
| <b>Plan Participants</b>                          | The Regional Conservation Authority, the County, County Flood Control, County Parks, County Waste, RCTC, the Cities, Caltrans and State Parks and others receiving Take Authorization under the Permits.  |
| <b>Planning Agreement</b>                         | The document prepared pursuant to the NCCP Act to guide development of the MSHCP, that is contained in Appendix A of the MSHCP, Volume I.   |
| <b>Planning Species</b>                           | Subsets of Covered Species that are identified to provide guidance for Reserve Assembly in Cores and Linkages and/or Area Plans.  |
| <b>Public/Quasi-Public Lands</b>                  | Subset of MSHCP Conservation Area lands totaling approximately 347, 000 acres of lands known to be in public/private ownership and expected to be managed for open space value and/or in a manner that contributes to the Conservation of Covered Species (including lands contained in existing reserves), as generally depicted in Figure 3-1 of the MSHCP, Volume I. |
| <b>Riverside County Transportation Commission</b> | RCTC, created pursuant to California Public Utilities Code section 130050.  |
| <b>Regional Conservation Authority</b>            | The Western Riverside County Regional Conservation Authority, a joint regional authority formed by the County and the Cities to provide primary policy direction for implementation of the MSHCP, as set forth in Section 6.6 of the MSHCP, Volume I, and Section 11.2 of the IA.   |
| <b>Reserve Assembly</b>                           | Acquisition and Conservation of Additional Reserve Lands.   |
| <b>Reserve Management Oversight</b>               | The committee established by the Executive Director to provide Committee biological, technical and operational expertise for implementation of the MSHCP, including oversight of the MSHCP Conservation Area as described in Section 11.2 of the IA and Section 6.6 of the MSHCP, Volume I.   |
| <b>Reserve Management Plan(s)</b>                 | The plan(s) setting forth management practices for identified portions of the MSHCP Conservation Area prepared and adopted as described in Section 5 of the MSHCP, Volume I.  |
| <b>Reserve Managers</b>                           | The entities managing identified portions of the MSHCP Conservation Area for the benefit of the Covered Species as described in Section 6.6.5 of the MSHCP, Volume I.   |
| <b>Rough Step</b>                                 | A Reserve Assembly accounting process to monitor Conservation and loss of specified Habitats within the Criteria Area.  |
| <b>Rough Step Analysis Unit</b>                   | A geographic unit within which Rough Step is tracked. Rough Step Analysis Units are depicted in Figure 6-6 of the MSHCP, Volume I.  |
| <b>Rural</b>                                      | A County of Riverside General Plan land use designation currently permitting single-family residential uses with a  |

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| <b>Mountainous</b>                             | minimum lot size of 10 acres with limited animal keeping and agricultural uses allowed; characterizes areas of at least 10 acres where a minimum of 70% of the area has slopes of 25% or greater  |
| <b>Section 10(a) Permit</b>                    | The permit issued by the USFWS to Permittees, in conformance with the IA and pursuant to 16 U.S.C. section 1539(a), authorizing Take of Covered Species Adequately Conserved.   |
| <b>State Assurances</b>                        | Except for provisions in Section 15.5 of the IA, provided Permittees are implementing the terms and conditions of the MSHCP, the IA, and the Permits, if there are Unforeseen Circumstances, CDFG shall not require additional land, water or financial compensation or additional restrictions on the use of land, water or other natural resources for the life of the NCCP Permit without the consent of the Permittees, unless CDFG determines that continued implementation of the IA, the MSHCP, and/or the Permits would jeopardize the continued existence of a Covered Species, or as required by law and would therefore lead to NCCP Permit revocation or suspension.                          |
| <b>State Parks</b>                             | California Department of Parks and Recreation, a department of the California Resources Agency.   |
| <b>State Permittees</b>                        | Caltrans and State Department of Parks and Recreation.  |
| <b>Take</b>                                    | The definition of such term in FESA with regard to species listed under FESA, and the definition of such term in the California Fish and Game Code with regard to species listed under CESA.  |
| <b>Take Authorization</b>                      | The ability to Take species pursuant to the Section 10(a) Permit and/or the NCCP Permit.  |
| <b>Third Party Granted Authorization</b>       | Take Any Third Party that receives Third Party Take Authorization in compliance with Section 17 of the IA.  |
| <b>Third Party Take Authorization</b>          | Take Authorization received by a landowner, developer, farming interest or other public or private entity from the Permittees pursuant to Section 17 of the IA, thereby receiving Take Authorization for Covered Species Adequately Conserved pursuant to the Permits and in conformance with the MSHCP and IA.   |
| <b>Threatened Species</b>                      | Those species listed as threatened under FESA and CESA.   |
| <b>Unforeseen Circumstances</b>                | Changes in circumstances affecting a Covered Species Adequately Conserved or geographic area covered by the MSHCP that could not reasonably have been anticipated by the Parties at the time of the MSHCP's negotiation and development, and that result in a substantial and adverse change in the status of the Covered Species Adequately Conserved. The term "Unforeseen Circumstances" as defined in the IA is intended to have the same meaning as it is used: 1) to define the limit of the Permittees' obligation on the "No Surprises" regulations set forth in 50 Code of Federal Regulations, sections 17.22 (b)(5) and 17.32 (b)(5); and 2) in California Fish and Game Code section 2805(k). |
| <b>Unlisted Species</b>                        | A species that is not listed as rare, endangered or threatened under FESA, CESA or other applicable state or federal law.   |
| <b>United States Fish and Wildlife Service</b> | USFWS, an agency of the United States Department of the Interior.   |
| <b>Urban/Wildlands Interface</b>               | The area where structures and other development occurs in proximity to the MSHCP Conservation Area.   |

**Vegetation Community(ies)** A group of plants that tend to occur together in consistent, definable groups based on typical constituents as depicted on the MSHCP Vegetation Map, Figure 2-1 of the MSHCP, Volume I.

**Wildlife Agencies** The USFWS and CDFG, collectively.

[Go Back To Previous Page](#)

[GIS Home Page](#)

[TLMA Home Page](#)



**SAN GORGONIO PASS WATER AGENCY  
ORDINANCE NO. 8**

**AN ORDINANCE ESTABLISHING RULES AND REGULATIONS  
FOR SGPWA WATER SERVICE**

WHEREAS, the Board of Directors of the San Gorgonio Pass Water Agency ("SGPWA") hereby finds:

1. SGPWA is a wholesale water agency organized and operated pursuant to the San Gorgonio Pass Water Agency Law, California Uncodified Water Act 9099, found in California Water Code Appendix 101 ("SGPWA Act").
2. SGPWA sale of water and dedication of Return Flows resulting from use of such SGWA Water to eliminate Overdraft in SGPWA groundwater basins provides the highest priority that is reasonably available to eliminate overdraft conditions.

NOW, THEREFORE, be it ordained by the Board of Directors of SGPWA as follows:

**RULES AND REGULATIONS  
FOR SGPWA WATER SERVICE  
AS SET FORTH BE ADOPTED**

## ARTICLE I

### TABLE OF CONTENTS

|             |   |
|-------------|---|
| ARTICLE I   | TABLE OF CONTENTS                                       |
| ARTICLE II  | DEFINITIONS   |
|             | Section 2.01 Definitions                                |
| ARTICLE III | AUTHORIZATION FOR SERVICE                               |
|             | Section 3.01 Application for Service                    |
|             | Section 3.02 Investigation and Action by SGPWA          |
|             | Section 3.03 Service Connections                        |
|             | Section 3.04 Meter Testing                              |
|             | Section 3.05 Indemnification                            |
| ARTICLE IV  | DELIVERY  |
|             | Section 4.01 Establishment and Payment of Water Charges |
|             | Section 4.02 Need Forecasting Procedures                |
|             | Section 4.03 Weekly Water Delivery Schedules            |
|             | Section 4.04 State Water Project Contract               |
|             | Section 4.05 Variable Supply                            |
|             | Section 4.06 Wholesale Only                             |
|             | Section 4.07 Water Quality                              |
|             | Section 4.08 SGPWA Boundaries                           |
|             | Section 4.09 Return Flows                               |
|             | Section 4.10 Hydraulic Head                             |

## ARTICLE II

### DEFINITIONS

**Section 2.01 Definitions.** As used herein the terms set forth below shall be defined as follows and shall have such meaning unless the context indicates otherwise.

(a) **APPLICATION:** A request by the "Applicant" for SGPWA Water service pursuant to these Rules and Regulations, including Section 3.01.

(b) **HYDRAULIC HEAD:** The force measured in pounds per square inch that represents the vertical distance between an unimpaired water surface and the point of delivery.

(c) **OVERDRAFT:** A condition wherein the total annual production from a groundwater basin exceeds the "safe yield" thereof. "Safe yield" is the maximum quantity of water which can be produced annually from a groundwater basin under a given set of conditions without causing a gradual lowering of the groundwater level leading eventually to depletion of the supply in storage.

(d) **RETURN FLOWS:** Amounts of SGPWA Water that return to surface or ground water after initial use by a retail consumer by irrigation or disposal through onsite waste disposal system.

(e) **SGPWA:** The San Gorgonio Pass Water Agency.

(f) **SGPWA WATER:** Water imported by SGPWA from outside the boundaries of SGPWA for sale to retail agencies within SGPWA or water otherwise "authorized" and developed by SGPWA pursuant to its Act, available for delivery by SGPWA subject to the limitations set forth in these Rules and Regulations.

(g) **SWP:** The California State Water Project.

(h) **TABLE A AMOUNT:** The annual amount of SWP water which SGPWA might obtain under its contract with the California Department of Water Resources ("DWR").

### ARTICLE III

#### AUTHORIZATION FOR SERVICE

**Section 3.01 Application for Service.** A person or entity ("Applicant") desiring SGPWA Water service pursuant to these Rules and Regulations shall submit an Application for service in such form as may be required by the SGPWA General Manager, which Application must include the following information:

1. Identity and legal capacity of the Applicant;
2. Amount, rate, location, time and manner of delivery of the SGPWA Water;
3. Description of delivery facilities, capacity and flow rates;
4. Environmental review and approval necessary under the California Environmental Quality Act;

5. Any further information and/or requirements that may be reasonably necessary for SGPWA to evaluate the Application according to the criteria of these Rules and Regulations and to carry out SGPWA's responsibilities under the law.

The SGPWA General Manager shall notify the Applicant within 30 days whether the Application is complete. The Applicant shall fund all costs incurred to process the Application and to construct facilities required to deliver the SGPWA Water. SGPWA may require a deposit to cover all or a portion of the estimated costs prior to accepting an application.

**Section 3.02 Investigation and Action by SGPWA.** The SGPWA General Manager shall investigate each Application and may require the submission of additional relevant information, to be provided at the cost of the Applicant. The SGPWA General Manager shall consider and act upon the Application and any required additional relevant information within a reasonable period of time after acceptance and submission of other required information.

The SGPWA Board of Directors shall have discretion to deny, approve or conditionally approve the Application. In acting on an Application, SGPWA may take into account whether the delivery or intended use of the Supplemental Water meets the requirements of applicable state, federal and local law or regulation. SGPWA approval of the Application will authorize delivery of SGPWA Water to be purchased by the Applicant, as "Purchaser", at the identified service connection, subject to conditions of the approval and this Ordinance.

**Section 3.03 Service Connections.** The design of service connections for SGPWA Water service shall meet the specifications as determined by the SGPWA General Manager to be necessary according to reasonable engineering practices and standards. Should the Application require the construction of a service connection, the Applicant, if approved by the Agency and at Applicant's cost, may design, according to SGPWA specifications, the service connection and any flow control facilities required by SGPWA, subject to the approval of the SGPWA General Manager, which approval shall not be unreasonably withheld. The Applicant shall pay the cost for SGPWA to install the service connection and any flow control facilities required by SGPWA and any cost for SGPWA design or design review of the service connection and flow control facilities. The service connection shall include any required flanges, valves, pipe, meters, electronic and remote telemeter and other required equipment. The flow control facilities must include any pipes, vertical structures, vertical meters, control panels, check valves, check valve structures, flanges, and other equipment required by SGPWA. SGPWA will confer with the Applicant regarding design and operation of the SGPWA service facilities.

The service connection and any flow control facilities required by SGPWA, to the downstream flange of the flow control facility meter, shall be the property of

SGPWA (collectively "SGPWA Service Facilities"), and the Applicant shall provide to SGPWA a grant from the landowner to SGPWA of any easement necessary for the construction, reconstruction, operation, maintenance and repair of the SGPWA Service Facilities. The Applicant shall, if required by SGPWA, provide evidence of clear title to the easement.

If the Applicant has not already done so in connection with the Application, the Applicant shall deposit an amount sufficient to cover all costs estimated by the SGPWA General Manager prior to SGPWA action towards construction of the SGPWA Service Facilities. Upon approval and receipt of the deposit, SGPWA shall procure all equipment and materials and construct the SGPWA Service Facilities. Upon completion of construction of the SGPWA Service Facilities, SGPWA shall render to the Applicant a statement of all costs; if such costs exceed the sum of money deposited by the Applicant with SGPWA, the Applicant promptly shall pay to SGPWA the amount by which such costs shall exceed such deposit; and if such costs be less than the deposit, any unexpended balance shall be returned by SGPWA to the Applicant.

**Section 3.04 Meter Testing.** When the accuracy of a water meter measuring the amount of SGPWA Water delivery through a service connection is questioned by the Purchaser, SGPWA upon request will cause an official test to be made at its own expense. The Purchaser will be duly notified of the time and place of such test and may be present when any such test is made by SGPWA.

The meter will be tested on variable rates of delivery and if the average registration is more than two percent in excess of the actual quantity of water passing through the meter, SGPWA shall refund to the Purchaser the overcharge based upon the test, for the prior twelve months, unless it can be shown that the error was due to some cause for which the date can be fixed. In the latter case, the overcharge shall be computed back to and not beyond such time. Any undercharge determined upon the basis of the test may be billed to the Purchaser on a similar basis.

Requests for a test within 12 months of a prior test will be at the Purchaser's expense unless the meter is determined to be over registering deliveries as determined in this section.

**Section 3.05 Indemnity.** The Applicant shall agree to defend, indemnify and hold harmless SGPWA, its directors, officers, agents and employees from and against any and all claims, demands, losses, costs, expenses, liability and damages, including but not limited to reasonable engineers' and attorneys' fees, arising out of or related to (i) the control, carriage, handling, use, disposal, or distribution of SGPWA Water sold by SGPWA after the point of delivery to the Applicant; (ii) the attachment to or removal of the Applicant's facilities to those of SGPWA.

Such agreement to defend, indemnify and hold harmless shall survive the termination of the Applicant's use of the service connection for delivery of SGPWA Water. In the event that SGPWA determines that the Applicant does not meet certain financial criteria, SGPWA may require surety for the Applicant's obligation under this section.

## ARTICLE IV

### DELIVERY

**Section 4.01 Establishment and Payment of Water Charges.** SGPWA shall establish and charge rates for delivery of SGPWA Water sufficient to cover SGPWA's variable costs (including off-aqueduct costs) for delivery of SGPWA Water, internal SGPWA costs and other amounts as determined by the SGPWA Board of Directors reasonably related to the cost of delivery. The rates are subject to the price, classification, and conditions that SGPWA establishes from time to time, according to the use to be made of such water, and taking into account the amount of Return Flows from different uses. The rates are subject to review and change by SGPWA.

Water charges are due and payable at the SGPWA office on the date of mailing as set forth on the bill to the Purchaser and shall be delinquent 30 days thereafter. Upon 10 days notice, SGPWA may suspend delivery of SGPWA Water to the Purchaser if payment of the water charge is not made prior to the date such charge becomes delinquent. With the exception of any rights reserved to SGPWA pursuant to this Ordinance, title to the purchased SGPWA Water shall pass to the Purchaser at the point of delivery. The point of delivery for direct deliveries is the downstream side of the check valve structure and flange of the flow control facility connected to the Purchaser's (or its designee's) system. The point of delivery for SGPWA Water to be stored in SGPWA recharge facilities shall be the point of recharge. The Purchaser shall be responsible for such additional charges, if any, for SGPWA operational costs as may be necessary for SGPWA to deliver and/or handle the SGPWA Water beyond the point of delivery on behalf of the Purchaser.

**Section 4.02 Need Forecasting Procedures.** Before August 1 of each year, each Purchaser shall furnish the SGPWA in a form provided by the SGPWA, with an estimate of the amounts of water to be delivered to such Purchaser by the SGPWA.

Each estimate shall contain, as a minimum, for each service connection for each month of the year beginning with the succeeding January 1, and for each of the succeeding four years, the following information:

1. The quantity of water to be delivered by SGPWA to the Purchaser;
2. The quantity of water to be used for:
  - (a) Domestic, industrial, and municipal purposes, exclusive of groundwater replenishment by spreading or injecting;
  - (b) Groundwater replenishment by spreading or injecting;
  - (c) Agricultural purposes;
  - (d) Recreational purposes;
  - (e) Other uses.

The first year's estimate shall constitute the Purchaser's request for deliveries for the first of the five years covered therein. The Purchaser may make revisions to any of its estimates upon reasonable notice to the SGPWA.

The estimates will be used by the SGPWA in planning the construction needed to complete the SGPWA's ultimate distribution system; in planning the future operation of such system; and in preparing notices for submission to the State Department of Water Resources that will be used by the state to order power for pumping on the SWP.

**Section 4.03 Weekly Water Delivery Schedules.** The Purchaser shall submit a weekly delivery schedule to the SGPWA at least 10 days before the start of each weekly period commencing on Monday. The schedule shall state the flow rate required and times of delivery and location within the SGPWA system.

**Section 4.04 State Water Project Contract.** SGPWA Water deliveries shall be subject to all of the terms and conditions of SGPWA's SWP contract with DWR, including delivery interruption by reason of DWR and/or SGPWA's requirements for maintenance and operation of its facilities or by reason of demand by Purchasers in excess of SGPWA's Table A Amount. SGPWA will notify Purchasers in advance of any nonstandard delivery interruptions and planned outages, and coordinate such events with Purchaser's requirements, to the extent reasonably feasible.

**Section 4.05 Variable Supply.** Due to the annual variable nature of the SWP supply, SGPWA Water deliveries shall not constitute a vested right to a fixed amount of delivery each year or to any specific level of pressure. Purchasers should take into account the variable nature of SWP supply in their plans and operations.

**Section 4.06 Wholesale Only.** SGPWA Water deliveries from SGPWA shall be wholesale in nature, and SGPWA shall not assume the obligations of a water purveyor providing direct retail service to consumers.

**Section 4.07 Water Quality.** All SGPWA Water is raw untreated water and shall not be supplied for domestic purposes by any Purchaser or retail water service provider without such treatment as may be required to comply with all applicable laws and regulations. The SGPWA makes no representation as to the quality of the water it delivers with respect to its suitability for any particular purpose.

**Section 4.08 SGPWA Boundaries.** The SGPWA Water delivered by SGPWA shall not be used outside the SGPWA, directly or indirectly. Delivery or treatment of water outside of SGPWA for use within SGPWA shall not constitute use outside the SGPWA.

**Section 4.09 Return Flows.** SGPWA expressly reserves the right to Return Flows that are received by any groundwater basin determined to be in Overdraft for the purpose of eliminating Overdraft in such basin. The Beaumont Storage Unit, as identified in *San Timoteo Watershed Management Authority v. City of Banning et al* (Riverside County Superior Court Case No. RIC 389197), is a groundwater basin that has been determined to be in Overdraft. Therefore, SGPWA hereby dedicates Return Flows in the Beaumont Storage Unit to Overdraft elimination uses that may be required by the Riverside County Superior Court or the Court appointed Watermaster in the *San Timoteo Watershed Management Authority v. City of Banning et al* case. SGPWA does not reserve rights to Return Flows to any groundwater basin determined to not be in Overdraft, using reasonable, accepted and prevailing engineering standards.

**Section 4.10 Hydraulic Head.** SGPWA reserves the right to use and prevent others from using Hydraulic Head within the SWP or SGPWA facilities for hydroelectric production provided, however, that SGPWA will consider proposals, joint or otherwise, to implement the production.

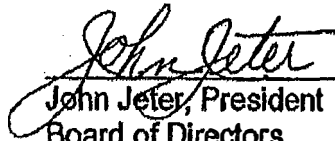
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This Ordinance shall be in full force and effect on the thirty-first day after adoption, and shall be published in full in a newspaper of general circulation within fifteen (15) days from the date of adoption.

Passed and adopted this 7th day of February, 2005, by the following vote:

AYES: Larsen, Voigt, Morris, Andersen, Snyder, Mann and Jeter  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
\_\_\_\_\_  
John Jeter, President  
Board of Directors  
San Geronio Pass Water Agency

ATTEST:

  
\_\_\_\_\_  
Stephen P. Stockton, Secretary  
Board of Directors  
San Geronio Pass Water Agency