

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, CA
Board of Directors Engineering Workshop
Agenda
June 10, 2019 at 1:30 p.m.

- 1. Call to Order, Flag Salute and Roll Call**
- 2. 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. Speakers are requested to keep their comments to no more than five minutes. Under the Brown Act, no action or discussion shall take place on any item not appearing on the agenda, except that the Board or staff may briefly respond to statements made or questions posed for the purpose of directing statements or questions to staff for follow up.
- 3. Discussion of Draft Term Sheet for Proposed Agreement with Yucaipa Valley Water District and San Bernardino Valley Municipal Water District to Facilitate Deliveries in Riverside County* (p. 2)**
- 4. Discussion of Draft Amendment to 2008 Cooperative Agreement with Santa Ana Regional Water Quality Control Board* (p. 17)**
- 5. Discussion of Sites Reservoir Funding Options**
- 6. Announcement:**
 - A. San Gorgonio Pass Subbasin Stakeholder Meeting, June 12, 2019 at 3:30 p.m. – San Gorgonio Pass Water Agency Board Room
 - B. Water Conservation and Education Committee Meeting, June 13, 2018 at 1:30 p.m.
 - C. Regular Board Meeting, June 17, 2019 at 1:30 p.m.
 - D. Finance and Budget Workshop, June 24, 2019 at 1:30 p.m.
 - E. San Gorgonio Pass Regional Water Alliance, June 26, 2019, 5:00 pm, Banning City Hall
- 7. Closed Session (2 Items)**
 - A. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9
Two potential cases
- 8. 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 <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.

Proposed Agreement to Facilitate Water Deliveries within Riverside County

Proposed Terms

1. Recitals

- a. San Bernardino Valley Municipal Water District (Valley) is a wholesale water agency and a State Water Contractor (SWC) that receives a yearly allocation of imported State Water Project (SWP) supplies from the Department of Water Resources (DWR).
- b. San Gorgonio Pass Water Agency (SGPWA) is a wholesale water agency and a State Water Contractor that receives a yearly allocation of imported SWP supplies from DWR.
- c. Valley and SGPWA cannot sell imported water to customers within another SWC area.
- d. Valley and SGPWA have entered into SWPAO Agreement 16030 with DWR for delivery of water into the Calimesa area. The agreement is an Exhibit B to this agreement.
- e. Yucaipa Valley Water District (YVWD) is a water retailer providing retail water service within both Valley and SGPWA service areas.
- f. YVWD receives imported water deliveries from Valley turnouts and then delivers that water to customers within both Valley and SGPWA service area.
- g. Valley, SGPWA, and YVWD have worked collaboratively on a method to account for the imported water deliveries YVWD makes within Valley and SGPWA service areas.
- h. The purpose of this agreement is to document the accounting procedure used to quantify YVWD deliveries of imported water supplies to customers within Valley and SGPWA service areas.

2. Terms

- a. YVWD must track deliveries of imported supplies to its customers in both Valley and SGPWA service areas.
- b. YVWD will use the method shown in Exhibit A to calculate the volume of imported water that was delivered to customers within Valley and SGPWA service areas.
- c. By the tenth (10th) business day of each month, YVWD will submit the completed calculations to Valley and SGPWA.
- d. Valley and SGPWA reserve the right to Audit the accounting methods and procedures.

3. Exhibit B Definitions

- [A] Quantity of Imported Water Delivered to YVWD (AF): Valley District meter reading for deliveries to YVWD. Generated by Valley's Operation Manager.
- [B] Quantity of Filtered Water Delivered to Customers (AF): YVWD water plant production report.
- [C] Potable Water Consumption By County (kgal): YVWD summation of deliveries to customers within each county. Found on YVWD internal report on potable water.
- [D] Percentage of Domestic Use per County: Calculation.
- [E] Preliminary Allocation of Filtered Water (AF): Calculation
- [F] Well No. 35 Production (AF): Found on YVWD water production report.
- [G] Well No. 40 Production (AF): Found on YVWD water production report.
- [H] Well No. 48 Production (AF): Found on YVWD water production report.
- [I] Well No. 61 Production (AF): Found on YVWD water production report.
- [J] Calculation of Filtered Water Use in Riverside County (AF): Calculation.

- [K] Revised Allocation of Filtered Water (AF): Calculation that moves the equivalent volume of water produced by wells within Riverside County from the SGPWA imported supply to the Valley imported supply.
- [L] Imported Water Allocated to YVWD (AF): Calculation.
- [M] Imported Water Allocated to WHMWC (AF): Found on YVWD production report.
- [N] Quantity of Recycled Water from Direct Imports (AF): Calculation.
- [O] Amount of Recycled Water from B-8 at Wocholz RWRFF (AF): Found on YVWD production report.
- [P] Actual Recycled Use in Riv Co. (AF): Found on YVWD internal report on non-potable water.
- [Q] Revised Allocation of Recycled Water Use from YVRWFF (AF): Calculation used when recycled production is less than demand.

Exhibit A

SWPAO Agreement 16030

State of California
The Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT AMONG
THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA,
SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT AND
SAN GORGONIO PASS WATER AGENCY
FOR
A CHANGE IN POINT OF DELIVERY OF A PORTION OF
SAN GORGONIO PASS WATER AGENCY'S
STATE WATER PROJECT TABLE A WATER

SWPAO #16030

THIS AGREEMENT is made this _____ day of _____, 20____,
under the provisions of the California Water Resources Development Bond Act, and other
applicable laws of the State of California, among the Department of Water Resources of
the State of California (DWR), San Bernardino Valley Municipal Water District (SBVMWD),
and San Gorgonio Pass Water Agency (SGPWA). DWR, SBVMWD and SGPWA may be
referred to individually by name, as "Party" or collectively as "Parties."

RECITALS

- A. DWR and SBVMWD have entered into a water supply contract, dated December 30, 1960, and subsequently amended, providing that DWR shall supply certain quantities of water to SBVMWD, providing that SBVMWD shall make certain payments to DWR, and setting forth the terms and conditions of such water deliveries and payments, hereinafter "SBVMWD's Water Supply Contract."
- B. DWR and SGPWA have entered into a water supply contract, dated November 16, 1962, and subsequently amended, providing that DWR shall supply certain quantities of water to SGPWA, providing that SGPWA shall make certain payments to DWR, and setting forth the terms and conditions of such water deliveries and payment, hereinafter "SGPWA's Water Supply Contract."
- C. Yucaipa Valley Water District (YVWD) serves customers located in both SBVMWD's and SGPWA's service areas. However, YVWD's only physical connection to the SWP system is located at SBVMWD's turnout at 3A of the California Aqueduct's East Branch Extension (Reach EBX-3A) from which SWP water is conveyed to YVWD's service area. Therefore, a change in point of delivery agreement is necessary for YVWD to receive SGPWA's SWP water for use in the SGPWA portion of YVWD's service area. SGPWA has estimated that up to 2,400 acre-feet per year of its SWP Table A water will be delivered and used by YVWD in SGPWA's service area.
- D. SGPWA requests DWR's approval for a change in point of delivery of up to 2,400 acre-feet annually of SGPWA's approved SWP Table A water to SBVMWD's turnout at Reach EBX-3A for use in the SGPWA portion of YVWD's service area.
- E. In compliance with the California Environmental Quality Act (CEQA), SGPWA, as lead agency, has determined that the change in point of delivery is categorically exempt from the requirements under CEQA Guidelines Section 15301 (exemption for the operation of existing facilities) and has filed a Notice of Exemption (NOE) with the State Clearinghouse (SCH) on January 4, 2017 (SCH # 2017018021). DWR, as the responsible agency, will file a NOE upon execution of this Agreement.

AGREEMENT

DWR approves a change in point of delivery of up to 2,400 acre-feet annually of SGPWA's approved SWP Table A water to SBVMWD's turnout at Reach EBX-3A of the California Aqueduct during the term of the Agreement, subject to the following terms and conditions:

TERM

1. This Agreement shall be effective upon execution by all Parties, and shall terminate on December 31, 2035, or upon final payment to DWR of all costs attributable to this Agreement, whichever occurs later. However, the liability, hold harmless and indemnification obligations in this Agreement shall remain in effect until December 31, 2039, or until any claim or litigation concerning this Agreement asserted to DWR, SBVMWD, or SGPWA as of December 31, 2039 is finally resolved, whichever occurs later. Extending the obligations in this paragraph of this Agreement beyond the termination dates in the long term SWP water supply contracts between DWR and SBVMWD and between DWR and SGPWA, and the use of the December 31, 2039 date in this Agreement, are not intended to have any legal effect on the termination dates of those or any other long term SWP water supply contracts.

UNIQUENESS OF AGREEMENT

2. DWR's approval under this Agreement is unique and shall not be considered a precedent for future agreements or DWR activities.

USE OF CALIFORNIA AQUEDUCT CAPACITY

3. Delivery of a portion of SGPWA's SWP Table A water to SBVMWD's turnout located on the California Aqueduct under this Agreement shall be in accordance with a schedule that has been reviewed and approved by DWR under applicable provisions of SGPWA's Water Supply Contract. Article 12(f) of SGPWA's Water Supply Contract shall govern the priority for delivery of such water.

APPROVALS

4. The delivery of water under this Agreement shall be contingent upon, and subject to, any necessary approvals and shall be governed by the terms and conditions of such approvals and any other applicable legal requirements. SGPWA and SBVMWD shall be responsible for complying with all applicable laws and legal requirements and for securing any required consent, approvals, permits, or orders. SGPWA and SBVMWD shall furnish to DWR copies of all approvals and agreements required for the delivery of water under this Agreement.

DELIVERY OF SGPWA'S TABLE A WATER

5. Under Article 15(a) of SGPWA's Water Supply Contract, DWR hereby consents to the delivery of a portion of SGPWA's SWP Table A water through SBVMWD's turnout under the terms and conditions of this Agreement and finds that such delivery will not materially impair SGPWA's capacity to make payments to DWR.

PRIOR WATER DELIVERIES

6. From 2005-2017, SBVMWD's SWP supplies were delivered to YVWD at Reach EBX-3A. However, a portion of that water was used in SGPWA's service area. SBVMWD and SGPWA internally coordinated the billing and tracking of the amount of water delivered to SGPWA's service area. However, DWR's water files did not reflect the correct amount of SWP water received by SBVMWD and SGPWA. In order to correctly reflect the activities between the two agencies in these years, DWR will reclassify water deliveries made to SBVMWD and SGPWA as shown in Attachment A.

SGPWA'S WATER DELIVERY TO SBVMWD'S TURNOUT

7. DWR will deliver up to 2,400 acre-feet annually of SGPWA's SWP Table A water to SBVMWD's turnout at Reach EBX-3A of the California Aqueduct.
8. The delivery of a portion of SGPWA's SWP Table A water under this Agreement shall be in accordance with a schedule approved by DWR. DWR's approval is dependent upon the times and amounts of the delivery and the overall delivery capability of the SWP. DWR shall not be obligated to deliver the water at times when such delivery would adversely impact SWP operations or facilities, or other SWP contractors.
9. The sum of deliveries scheduled under this Agreement, plus scheduled SGPWA SWP deliveries, plus deliveries to SGPWA under any other agreements, shall not exceed the quantities on which the proportionate Use-of-Facilities factors are based under SGPWA's Water Supply Contract, unless DWR determines that the deliveries will not adversely impact SWP operations or facilities, or other SWP contractors' Table A deliveries.

SOURCE OF WATER

10. SGPWA attests that the delivery of a portion of SGPWA's SWP Table A water to SBVMWD's turnout under this Agreement does not constitute a sale of its Table A water. Rather, SGPWA's SWP Table A water is delivered to SBVMWD's turnout on behalf of YVWD's customers that are within SGPWA's service area.

WATER DELIVERY SCHEDULES

11. All water delivery schedules and revisions under this Agreement shall be in accordance with Article 12 of SBVMWD's and SGPWA's respective Water Supply Contract.
12. SGPWA, in coordination with SBVMWD, shall submit monthly water delivery schedules for approval to the State Water Project Analysis Office (SWPAO), Water Deliveries Section, indicating timing and point of delivery requested under this Agreement with reference to SWPAO #16030. Delivery schedules shall be sent by electronic mail to SWPDeliveries@water.ca.gov or by FAX to (916) 653-9628, Attention: Chief, Water Deliveries Section.
13. SGPWA, in coordination with SBVMWD, shall submit weekly schedules for the delivery of water under this Agreement to the Southern Field Division, Water Operations Section, indicating timing and point of delivery requested with reference to SWPAO #16030. Schedules shall be sent by electronic mail to SFDwaterschedule@water.ca.gov or by FAX to (661) 294-3651, Attention: Chief, Water Operations Section.
14. All weekly water schedules described above shall be submitted by 10:00 a.m. Wednesday, for the following week, Monday through Sunday, to the Southern Field Division's Water Operations Section.
15. Weekly water schedules shall also be concurrently sent by electronic mail or faxed to the State Water Project Operations Control Office:
 - a. Water Management Branch
Water_deliv_sched@water.ca.gov
FAX to (916) 574-2785
Attention: Chief, Water Management Branch
 - b. Power Management and Optimization Branch
POCOptimization@water.ca.gov
FAX to (916) 574-2785
Attention: Chief, Power Management and Optimization Branch
 - c. Pre-Scheduling Section
Presched@water.ca.gov
FAX to (916) 574-2782
Attention: Chief, Pre-Scheduling Section

WATER DELIVERY RECORDS

16. DWR will maintain monthly records accounting for the delivery of water under this Agreement. SGPWA shall certify to SWPAO the quantity of water delivered to SBVMWD's turnout under this Agreement, by the 30th day after the delivery, with reference to SWPAO #16030.

CHARGES

17. SGPWA shall pay to DWR the charges associated with the delivery of water under this Agreement from the Delta to Reach EBX-3A. SGPWA shall pay to DWR the Variable Operation, Maintenance, Power, and Replacement Component of the Transportation Charge and the Off-Aqueduct Power Facilities cost for each acre-foot of water delivered from the Delta to the Reach EBX-3A. Charges shall be determined for the month the water is delivered.
18. In addition to the charges identified above, SGPWA agrees to pay to DWR any additional identified demonstrable increase in costs that would otherwise be borne by DWR or by the SWP contractors not signatory to this Agreement as a result of DWR providing service under this Agreement.
19. Payment terms under this Agreement shall be in accordance with SGPWA's Water Supply Contract.

NO IMPACT

20. This Agreement shall not be administered or interpreted in any way that would cause adverse impacts to SWP approved Table A water or to any other SWP approved water allocations, water deliveries, or SWP operations or facilities. SGPWA and SBVMWD shall be responsible, jointly and severally, as determined by DWR, for any adverse impacts that may result from water deliveries under this Agreement.

LIABILITY

21. DWR is not responsible for the use, effects or disposal of water under this Agreement once the water is delivered to the designated turnout(s). Responsibility shall be governed by Article 13 of SBVMWD's and/or SGPWA's respective Water Supply Contract, as applicable, with responsibilities under the terms of that article shifting from DWR to SGPWA and/or SBVMWD when the water is delivered to the designated turnout(s).

22. SGPWA and SBVMWD agree to defend and hold DWR, its officers, employees and agents harmless from any direct or indirect loss, liability, lawsuit, cause of action, judgment or claim, and shall indemnify DWR, its officers, employees and agents from all lawsuits, costs, damages, judgments, attorneys' fees, and liabilities that DWR, its officers, employees and agents incur as a result of DWR providing services under this Agreement, except to the extent resulting from the sole negligence or willful misconduct of DWR, its officers, employees and agents.
23. If uncontrollable forces preclude DWR from delivery of water under this Agreement, either partially or completely, then DWR is relieved from the obligation to deliver the water to the extent that DWR is reasonably unable to complete the obligation due to the uncontrollable forces. Uncontrollable forces shall include, but are not limited to, earthquakes, fires, tornadoes, floods, and other natural or human caused disasters. SGPWA and SBVMWD shall not be entitled to recover any administrative costs or other costs associated with delivery of water under this Agreement if uncontrollable forces preclude DWR from delivering the water.

DISPUTE RESOLUTION

24. In the event of a dispute regarding interpretation or implementation of this Agreement, the Director of DWR and authorized representatives of SGPWA and SBVMWD shall endeavor to resolve the dispute by meeting within 30 days after the request of a Party. If the dispute remains unresolved, the Parties shall use the service of a mutually acceptable consultant in an effort to resolve the dispute. Parties involved in the dispute shall share the fees and expenses of the consultant equally. If a consultant cannot be agreed upon, or if the consultant's recommendations are not acceptable to the Parties, and unless the Parties otherwise agree, the matter may be resolved by litigation and any Party may, at its option, pursue any available legal remedy including, but not limited to, injunctive and other equitable relief.

NO ASSIGNMENT OF AGREEMENT

25. Without the prior written consent of DWR, SGPWA and SBVMWD, this Agreement is not assignable by SGPWA and SBVMWD in whole or in part.

PARAGRAPH HEADINGS

26. The paragraph headings of this Agreement are for the convenience of the Parties and shall not be considered to limit, expand, or define the contents of the respective paragraphs.

OPINIONS AND DETERMINATION

27. Where the terms of this Agreement provide for actions to be based upon the opinion, judgment, approval, review, or determination of any Party, such terms are to be construed as providing that such opinion, judgment, approval, review, or determination be reasonable.

NO MODIFICATION OF AGREEMENT

28. No modification of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties to this Agreement.

NO MODIFICATION OF WATER SUPPLY CONTRACT

29. This Agreement shall not be interpreted to modify the terms or conditions of SGPWA's and SBVMWD's respective Water Supply Contract. Unless expressly provided herein, the terms and conditions of SGPWA's and SBVMWD's respective Water Supply Contract and any future amendments apply to this Agreement.

SIGNATURE CLAUSE

30. The signatories represent that they have been appropriately authorized to enter into this Agreement on behalf of the Party for whom they sign. A copy of any resolution or other documentation authorizing SGPWA and SBVMWD to enter into this Agreement, if such resolution or authorization is required, shall be provided to DWR before the execution of this Agreement.

EXECUTION IN COUNTERPART

31. This Agreement may be executed in counterpart. The Parties agree to accept facsimile or electronically scanned signatures as original signatures. This Agreement shall take effect as soon as all Parties have signed. Immediately after execution, SGPWA and SBVMWD shall transmit a copy of the executed Agreement by facsimile or electronic file to Pedro Villalobos, SWPAO Chief, at (916) 653-9628 or swpao-chief@water.ca.gov and to each other at:

- a. San Gorgonio Pass Water Agency
Mr. Jeff Davis, General Manager
Fax: (951) 845-0281
Email: jdavis@sgpwa.com
- b. San Bernardino Valley Municipal Water District
Mr. Douglas Headrick, General Manager
Fax: (909) 387-9247
Email: dough@sbvmwd.com

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement.

Approved as to Legal Form
and Sufficiency

State of California
Department of Water Resources

Chief Counsel
Department of Water Resources

Pedro Villalobos, Chief
State Water Project Analysis Office

Date

Date

San Geronio Pass Water Agency

San Bernardino Valley Municipal Water District

Name

Douglas D. Headrick

Name Douglas D. Headrick

Title

Title General Manager

Date

12/18/18

Date

Attachment A

YEAR	Amount to Reclassify (AF)
2005	57
2006	159
2007	119
2008	287
2009	274
2010	123
2011	109
2012	164
2013	180
2014	102
2015	454
2016	647
2017	898

The above table shows the amount of water to be reclassified. SGPWA's and SBVMWD's deliveries for these years will be modified by increasing and decreasing amounts respectively. The charges will be adjusted accordingly. SGPWA will be billed and SBVMWD will be credited by an equal amount.

Exhibit B

Calculation Sheet

1
2 **First Amendment**
3

4 **Cooperative Agreement to Protect Water Quality and**
5 **Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin**
6

7 This First Amendment to the Cooperative Agreement to Protect Water Quality and
8 Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin (**First**
9 **Amendment**) is entered into and effective this ___ day of _____, 2019 by and among the
10 California Regional Water Quality Control Board, Santa Ana Region (**Regional Board**) and the
11 entities listed in paragraph 11(n) of the Cooperative Agreement to Protect Water Quality and
12 Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin, dated January
13 18, 2008, (**Cooperative Agreement**). The Regional Board and each of the entities listed in
14 paragraph 11(n) of the Cooperative Agreement are individually sometimes referred to here as a
15 **Party** and are collectively referred to as the **Parties**.
16

17 Recitals
18

- 19 A. On January 18, 2008, the Parties entered into the Cooperative Agreement and, since that
20 time, the Parties have collectively implemented the terms of the Cooperative Agreement.
21 Paragraph 3 of the Cooperative Agreement provides that the Cooperative Agreement will
22 automatically renew for periods of ten years unless a Party provides notice of withdrawal
23 at least one year before the termination of the then-current term of the Cooperative
24 Agreement; no Party provided such notice prior to January 18, 2017. Accordingly, the
25 current term of the Cooperative Agreement will end on January 18, 2028.
26
- 27 B. Paragraph 4 of the Cooperative Agreement requires the re-computation of the current
28 ambient water quality of the groundwater management zones within the Santa Ana River
29 Watershed every three years; the modeling of groundwater quality, specifically Total
30 Dissolved Solids (**TDS**) and Total Inorganic Nitrogen (**TIN**), in the groundwater
31 management zones where the recharge of imported water takes place every six years; and
32 summary reports every three years.
33
- 34 C. For the management zones that are located upstream of Prado Dam, the water quality
35 modeling and summary reports prepared over the initial ten-year term of the Cooperative
36 Agreement indicate that the water quality of water imported from the State Water Project
37 (**SWP**) is equal to or better than the currently-approved water quality objectives set forth
38 in the Basin Plan for the Santa Ana Region for those management zones.
39
- 40 D. For the Orange County Management Zone, the water quality modeling and summary
41 reports prepared over the initial ten-year term of the Cooperative Agreement indicate that
42 the water quality resulting from the blending of imported water from the SWP and

43 recycled water from the Groundwater Replenishment System is equal to or better than the
44 currently approved water quality objectives set forth in the Basin Plan for the Santa Ana
45 Region for that management zone.
46

47 E. The Basin Monitoring Program Task Force (**Task Force**) performs the necessary
48 calculations to estimate ambient TDS and TIN concentrations in each groundwater
49 management zone in the Santa Ana River watershed every three years based on field
50 data. The Task Force does not perform the modeling of future groundwater quality
51 conditions that is required by paragraph 4 of the Cooperative Agreement. The Task
52 Force's work to estimate ambient TDS and nitrate TIN is conducted independently of the
53 provisions of paragraph 4 of the Cooperative Agreement.
54

55 F. The Task Force also is responsible for updating the Santa Ana River Wasteload
56 Allocation Model every ten years to estimate TDS and TIN concentrations in the Santa
57 Ana River and its tributaries upstream of Prado Dam and in Reach 2 of the Santa Ana
58 River in Orange County, which estimates also include a projection of surface water
59 quality in these areas for twenty years into the future.
60

61 G. There is some overlap between the modeling and analysis performed by the Task Force,
62 as described in Recitals E and F above, and the requirements for water quality monitoring
63 and modeling that were established in paragraph 4 of the Cooperative Agreement.
64

65 H. The Parties desire to consolidate modeling and analysis to the greatest extent possible,
66 consistent with engaging in the best scientific and engineering analysis possible and
67 consistent with fully protecting the groundwater basins of the Santa Ana River Watershed
68 in the manner described in the Santa Ana River Basin Plan.
69

70 I. In certain groundwater management zones, the Regional Board has approved "maximum
71 benefit" programs (**Maximum Benefit Programs**) to allow the discharge of recycled
72 water with quality worse than the antidegradation water quality objective, *provided* that
73 such discharges are part of a comprehensive water management program that will not
74 result in long-term harm to the groundwater basin or downstream beneficial uses. Such
75 Maximum Benefit Programs include a series of commitments by the agencies involved,
76 including but not limited to: the construction of a desalter for recycled water or
77 groundwater, upgrading a wastewater treatment plant, annual monitoring and reporting of
78 surface water and groundwater quality, and the periodic modeling projection of
79 groundwater quality.
80

81 J. Many of the Parties are also working together to combine existing, computer
82 groundwater models, including but not limited to the models that were identified in
83 paragraph 5(b) of the Cooperative Agreement, into a single model that will be capable of
84 modeling groundwater flows from the Yucaipa area in the upper portion of the Santa Ana

85 River watershed to Prado Dam. This model, termed the **Integrated Groundwater Flow**
86 **Model**, will be able to model both surface water and groundwater flows. All, or a
87 portion, of the Integrated Groundwater Flow Model ~~may, in the future, will~~ be enhanced
88 so that it is also capable of modeling TDS and TIN and also could, in the future, be
89 extended up the Temescal Wash. ~~The Integrated Groundwater Flow Model, as~~
90 ~~augmented by TDS and TIN modeling, whether or not it is extended up Temescal Wash,~~
91 is known referred to as the Integrated Flow and Quality Model (**IFQM**).

92
93 K. As indicated in Recital H above, the Parties wish to avoid any duplicative modeling and
94 also wish to avoid any duplication of the work required pursuant to the Maximum Benefit
95 Programs with work that is required under the Cooperative Agreement. The Parties
96 believe that the development and use of the IFQM would accomplish these modeling
97 goals, at a potentially lower cost, for all areas upstream of Prado Dam.

98
99 L. The Parties wish to work with the Task Force to accomplish the integration of all of the
100 water quality modeling efforts described above so as to: (i) use the best available science
101 in making decisions, (ii) reduce any duplicative efforts and inefficiencies, and (iii) be
102 able to make decisions, to the extent feasible, based on a consensus of all Parties.

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104 M. The Parties wish to memorialize their mutual agreements in the form of this First
105 Amendment.

106 Agreements

107 1. *Relationship to Cooperative Agreement*

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109 Save as expressly amended by this First Amendment, all provisions of the Cooperative
110 Agreement shall continue in full force and effect. In the event of any express inconsistency
111 between the terms of this First Amendment and the Cooperative Agreement, the provisions of
112 this First Amendment shall control.

113 2. *Exclusion of Colorado River Water Deliveries*

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116 The Parties agree that no provision of this First Agreement shall apply to the monitoring,
117 reporting or modeling performed by any Party with regard to deliveries or use of water from the
118 Colorado River. All such deliveries or use shall be subject to the monitoring, reporting and
119 modeling requirements of the Cooperative Agreement. The Parties may, but need not, choose to
120 amend the timing or the frequency of reporting of such deliveries, in the future, to better conform
121 with monitoring and reporting schedules adopted under this First Amendment.
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125 3. *Use of the IFQM*

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The Parties agree that the IFQM shall be deemed to be an accepted model pursuant to paragraph 5(b) of the Cooperative Agreement, *provided that* the IFQM is subjected to ~~concurrent~~ independent peer review and will be modified to address any issues identified by that peer review, and *provided further that* it can be demonstrated with reasonable certainty that the relative error of the modified IFQM's calibration for the groundwater management zone(s) in question for a reasonable base period is $\pm 10\%$, or less, when compared with existing groundwater data. The Parties agree that they will fund any and all enhancements that may be needed to develop the IFQM and to use it for modeling purposes. The Task Force shall have no obligation to contribute to such efforts.

Comment [LM1]: Not sure what 'concurrent' means in this context, or why it would be required.

137 4. *Use of Modeling and Reporting by a Maximum Benefit Programs*

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Any Party that has entered into an agreement with the Regional Board to implement a Maximum Benefit Program shall be exempt from the reporting requirements of paragraph 4 of the Cooperative Agreement so long as they are, ~~because they will already be~~ subject to the reporting requirements of their Maximum Benefit Program.

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144 5. *Use of Modeling and Reporting by the Task Force*

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The Parties operating in groundwater basins that do not have a Maximum Benefit Program may contract with the Task Force (or a consultant retained by the Task Force) to satisfy the monitoring, reporting and modeling requirements of paragraph 4 of the Cooperative Agreement by means of the modeling and reporting efforts and schedule of the Task Force described in Recitals E and F above and the use of the IFQM (upon approval by the Parties) provided that: (i) the Party desiring to utilize the Task Force modeling is a member in good standing of the Task Force, and (ii) the modeling prepared by the Task Force meets the requirements of this First Amendment and the Cooperative Agreement.

154
155 6. *Monitoring and Modeling Schedule*

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The monitoring and reporting requirement established by paragraph 4 of the Cooperative Agreement is hereby modified to require the Parties to submit reports every five years, beginning on July 18, 2021. The modeling projection requirement established by paragraph 4.c of the Cooperative Agreement is hereby modified to require the twenty year projections to be completed every ten years beginning on July 18, 2020.

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COOPERATIVE AGREEMENT
TO PROTECT WATER QUALITY AND ENCOURAGE THE CONJUNCTIVE USES OF IMPORTED
WATER IN THE SANTA ANA RIVER BASIN

This Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin ("Agreement") is entered into and effective this 18 day of January, 2007 by and among the California Regional Water Quality Control Board, Santa Ana Region (the "**Regional Board**") and the entities listed in paragraph 11(n) below. The Regional Board and each of the entities listed in paragraph 11(n) below are individually referred to as a "**Party**" and are collectively referred to as the "**Parties**."

Recitals

A. Water imported to the Santa Ana River Region, as defined in Water Code section 13200(e) (the "**Region**"), from the State Water Project, the Colorado River and other sources, and to groundwater basins within the Region from other groundwater basins within the Region, is vital to meet present and future demands for water within the Region. Such water is directly used; injected or percolated within groundwater basins; stored in a groundwater basin for later use; may be combined with or used in addition to the native groundwater supplies in a basin; may be exported/imported from one basin to another; and after consumptive use may form a portion of the wastewater that is treated, recharged and reused within the Region. Such conjunctive uses of surface water and groundwater within the Region have been contemplated by the State of California at least since the issuance of the original California Water Plan in 1957 and the adoption by the State Water Quality Control Board of Resolution No. 64-1.

B. The Regional Board is charged by statute with adopting such water quality objectives as may be required to protect the beneficial uses of water within the Region. In particular, the long-term conjunctive use of groundwater in the Region requires that the quality of water in groundwater basins in the Region be managed to meet the water quality objectives for nitrogen and total dissolved solids (collectively, the "**Salinity Objectives**") adopted by the Regional Board in the 1995 Water Quality Control Plan for the Santa Ana River Basin, as amended in 2004 by R8 2004-0001 (the "**Basin Plan**").

C. The Salinity Objectives presently included in the Basin Plan are the result of a multi-year, multi-million dollar cooperative effort among many of the Parties. The Salinity Objectives are a product of the best scientific and technical information available.

D. The Legislature has declared that the facilitation of voluntary transfers of water and water rights is the established policy of the State. The Legislature has further declared that voluntary water transfers between water users can result in a more efficient use of water and can allow more intensive use of developed water resources so as to conserve all available water resources. The Legislature has directed the Regional Board to encourage voluntary transfers of water and water rights.

46 E. The Parties disagree whether the Regional Board may regulate the conjunctive
47 uses of imported water in the Region by means of general waste discharge requirements. Some
48 of the Parties believe the Regional Board lacks authority to regulate the conjunctive uses of
49 water in the Region because, they contend, such water does not constitute "waste" as defined in
50 Water Code section 13050(d); the Regional Board and other Parties believe the Regional Board
51 has such authority.

52
53 F. To avoid costly and time-consuming litigation brought to resolve the scope of the
54 Regional Board's authority to regulate imported water and without prejudice to the Parties'
55 competing views on this question, the Parties wish to act cooperatively with the goal of
56 achieving compliance with the Salinity Objectives without the necessity of general waste
57 discharge requirements.

58
59 G. The Parties wish to memorialize the terms of their cooperative effort by means of
60 this Agreement.

61
62
63 Agreements

64
65 1. *Purpose of Agreement*

66 This Agreement is intended to allow the Parties to monitor and improve water quality
67 within the Santa Ana River Region in a manner that is consistent both with adopted water quality
68 objectives and with the needs of the inhabitants of the Region for a reliable supply of water.
69 This Agreement is limited in scope to compliance with and implementation of the Salinity
70 Objectives.

71 2. *Parties*

72 The Regional Board or any public agency or non-profit mutual water company that
73 imports water to the Region, exports/imports water between basins within the Region, recharges
74 such imported water within the Region, delivers such imported water for potable use within the
75 Region, or treats and/or recharges wastewater within the Region that includes imported water
76 may become a Party to this Agreement.

77
78 3. *Term of Agreement*

79 This Agreement will have an initial term of 10 years and shall automatically renew for
80 subsequent 10-year periods, *provided* that any Party may withdraw at any time by providing one
81 year's written notice of withdrawal to all other Parties.

82 4. *Preparation of Triennial Water Quality Report*

83 The Parties that intentionally recharge imported water within the Santa Ana Region (the
84 "Recharging Parties") agree voluntarily to collect, compile and analyze the N/TDS water
85 quality data necessary to determine whether the intentional recharge of imported water in the
86 Region may have a significant adverse impact on compliance with the Salinity Objectives within

87 the Region. To that end, the Recharging Parties will collect, compile and analyze such N/TDS
88 water quality data and prepare, within eighteen months from the effective date of this Agreement
89 and every three years thereafter, a report containing the following information:

90 a. A summary of the then-current ambient water quality in each groundwater
91 management zone and a comparison of that ambient water quality with the
92 Salinity Objectives. The Recharging Parties shall calculate ambient water quality
93 for each groundwater management zone in a manner that allows for a technically
94 valid comparison with the Salinity Objectives.

95 b. A summary of the amount and quality of imported water recharged in each
96 groundwater management zone during the previous three-year period.

97 c. The initial report and each report prepared at six-year intervals thereafter will
98 include a projection of ambient water quality in each groundwater management
99 zone for the subsequent 20 years.

100 (1) The projection of ambient water quality for each groundwater
101 management zone will be based upon professionally accepted modeling
102 techniques, will reasonably account for surface fluxes of salt input, will
103 reflect the effects of all existing and reasonably foreseeable recharge
104 projects for which there is a certified environmental document and will
105 compare baseline ambient water quality with the Salinity Objectives.

106 (2) The projections for different groundwater management zones may be
107 based on different modeling techniques.

108 (3) Each report that includes a 20-year projection of ambient water quality
109 will also present a comparison of then-current water quality in each
110 groundwater management zone with the ambient water quality projection
111 made six years earlier, together with an evaluation of the reason(s) for any
112 differences.

113 The Recharging Parties will agree among themselves regarding the manner in which they will
114 prepare the report and the manner in which they will share the cost of preparing the report. The
115 Recharging Parties will circulate a draft version of each report to all other Parties for review and
116 written comments for at least a 45-day period. The Recharging Parties shall consider written
117 comments received on the draft report in preparing the final report. Upon completion of the final
118 report, the Recharging Parties shall promptly lodge the final report with the Regional Board.

119 5. *CEQA Review of Proposed Projects*

120 Each Recharging Party agrees that, when it serves as a lead agency under the California
121 Environmental Quality Act ("CEQA") for a proposed project involving the recharge of imported
122 water within the Region, it will analyze that project as follows:
123

- 124 a. The environmental document will include the water quality data compiled in the
 125 most recent triennial report to the Regional Board (see paragraph 4 above) in the
 126 analysis of the potential impacts of the proposed project.
- 127 b. The environmental document will incorporate professionally acceptable modeling
 128 techniques. The Parties agree that the following models meet this standard:
- 129 (1) The Wildermuth models used to establish maximum benefit objectives.
- 130 (2) The Orange County Basin Groundwater Model.
- 131 (3) The USGS/Geoscience/Secor model of the Bunker Hill Groundwater
 132 Basin.
- 133 (4) The Chino Basin Watermaster/Inland Empire Utilities Agency model.
- 134 (5) The Beaumont-Cherry Valley model for the Beaumont management zone
- 135 (6) Eastern Municipal Water District's San Jacinto Groundwater Model.
- 136 (7) Elsinore Valley Municipal Water District's Elsinore Basin Groundwater
 137 Model.
- 138 (8) The USGS model of the Beaumont Basin (with MT3D package or
 139 equivalent added).
- 140 Updates/refinements of these models are presumed to be professionally
 141 acceptable.
- 142 c. A Recharging Party may base its environmental analysis on a model other than
 143 those described above if that model has been presented to the Regional Board at
 144 least 180 days prior to the release of the draft environmental document and there
 145 has been a determination by the Regional Board or its staff that the alternative
 146 model is acceptable.
- 147 (1) The Regional Board agrees that an alternative model is acceptable for
 148 purposes of this Agreement if the proponent of that model can
 149 demonstrate with reasonable certainty that the relative error of the model's
 150 calibration for the groundwater management zones in question for a
 151 reasonable base period is $\pm 10\%$ or less when compared with existing
 152 groundwater data.
- 153 (2) The provisions of the immediately preceding paragraph are not to be
 154 construed to preclude other means or methodologies for an alternative
 155 model's proponent to demonstrate to the Regional Board that an
 156 alternative model is acceptable for purposes of this Agreement.

- 157 (3) If an alternative model has not been deemed acceptable by the Regional
158 Board or its staff and a lead agency wishes to include results from that
159 model in the environmental document, the lead agency shall include
160 results from both the alternative model and one of the pre-approved
161 models in the environmental document.
- 162 d. The environmental document will include the following analyses:
- 163 (1) A summary of the condition of the groundwater management zones, as
164 reflected in the most recent triennial report to the Regional Board, that
165 might be affected by the project.
- 166 (2) A 20-year projection of water quality in the groundwater management
167 zone with the proposed project and a comparison of that water quality with
168 conditions expected without the project.
- 169 (3) A comparison of the 20-year water quality projection for conditions with
170 the proposed project with the Salinity Objectives for the groundwater
171 management zone.
- 172 (4) A description and evaluation of any measures proposed to mitigate the
173 potential effects of the proposed project.
- 174 e. The draft environmental document will be circulated to all Parties.
- 175 f. Each Recharging Party agrees to adopt the operative guidelines contained in this
176 paragraph 5 as part of its CEQA implementing procedures pursuant to section
177 15022 of the CEQA Guidelines.
- 178 g. The environmental document shall include, if required under CEQA, an effective
179 mitigation monitoring and reporting plan that enables the lead agency to
180 demonstrate compliance with applicable regulatory standards and any
181 performance standards adopted in the environmental document.

182 6. *Basin Planning Updates*

183 The Regional Board will review and, if appropriate, revise water quality objectives for
184 the purpose of facilitating the recharge of imported water in groundwater management zones
185 within the Region. The Parties agree to cooperate in such efforts and agree to work
186 cooperatively to develop a program that addresses the use and allocation of assimilative capacity
187 as part of overall Basin planning and management.

188 7. *Enforcement*

189 If the Recharging Parties fail timely to prepare the triennial report described in paragraph
190 4 above or if a Recharging Party fails to include the analyses described in paragraph 5 above in
191 an environmental document prepared in connection with a proposed project involving the
192 recharge of imported water, then any other Party may enforce the terms of this Agreement as

193 follows.

194 If the dispute relates to the triennial report on water quality, the Regional Board will hold
195 a hearing asking the Recharging Parties to provide an explanation for the delay or failure to
196 prepare the report. Such a hearing will precede an action for specific performance of the terms
197 of this Agreement by the Regional Board. In the event that the dispute relates to the failure of a
198 Party to provide the appropriate analysis in an environmental document, that dispute will be
199 addressed by the Party(ies) using the remedies available under CEQA.

200 The Parties recognize that nothing in this Agreement can or is intended to divest the
201 Regional Board of its authority under the Porter-Cologne Water Quality Control Act.
202 Furthermore, nothing in this Agreement shall be construed as a waiver by any Party of any
203 remedies it may have against a non-Party for interference with the implementation of this
204 Agreement.

205 8. *Books and Records*

206 Each Party shall have access to and the right to examine any of the other Parties'
207 pertinent books, documents, papers or other records (including, without limitation, records
208 contained on electronic media) relating to the performance of that Party's obligations pursuant to
209 this Agreement. The Parties shall each retain all such books, documents, papers or other records
210 for at least four years after the termination of this Agreement to facilitate such review. Access
211 to each Party's books and records shall be during normal business hours only. Nothing in this
212 paragraph shall be construed to operate as a waiver of any applicable privileges.

213 9. *No Admissions*

214 Nothing in this Agreement shall be construed as an admission by any Party regarding any
215 subject matter of this Agreement, including but not limited to the authority of the Regional Board
216 to regulate the importation of water to the Region. The Parties agree that Evidence Code
217 sections 1152 and 1154 render this Agreement inadmissible as evidence against any of the
218 Parties in any adjudicative proceeding, except a proceeding to enforce or interpret the terms or
219 conditions of this Agreement.

220 10. *Preservation of Rights*

221 The Parties agree that this Agreement is in settlement of a dispute and preserves all rights
222 of the Parties as they may exist as of the effective date of this Agreement.

223 11. *General Provisions*

224 a. *Authority.* Each signatory of this Agreement represents that s/he is authorized to
225 execute this Agreement on behalf of the Party for which s/he signs. Each Party
226 represents that it has legal authority to enter into this Agreement and to perform
227 all obligations under this Agreement.

228 b. *Amendments.* This Agreement may only be amended with the approval of all
229 Parties.

- 230 c. *Jurisdiction and Venue.* This Agreement shall be governed by and construed in
231 accordance with the laws of the State of California, except for its conflicts of law
232 rules. Any suit, action, or proceeding brought under the scope of this Agreement
233 shall be brought and maintained to the extent allowed by law in the County of
234 Riverside, California.
- 235 d. *Representations and Warranties.* Each representation and warranty contained
236 herein or made pursuant hereto shall be deemed to be material and to have been
237 relied upon and shall survive the execution, delivery and termination of this
238 Agreement.
- 239 e. *Entire Agreement.* This Agreement constitutes the entire agreement of the Parties
240 with respect to the subject matter of this Agreement and supersedes any prior oral
241 or written agreement, understanding, or representation relating to the subject
242 matter of this Agreement.
- 243 f. *Successors and Assigns.* This Agreement shall be binding on and inure to the
244 benefit of the successors and assigns of the respective Parties to this Agreement.
245 No Party may assign its interests in or obligations under this Agreement without
246 the written consent of the other Parties, which consent shall not be unreasonably
247 withheld or delayed.
- 248 g. *Advice of Counsel; Drafting by Negotiations.* This Agreement has been arrived at
249 through negotiations and each Party has had a full and fair opportunity to revise
250 the terms of this Agreement. As a result, the normal rule of construction that any
251 ambiguities are to be resolved against the drafting Party shall not apply in the
252 construction or interpretation of this Agreement. Each Party represents that it has
253 sought and obtained any legal advice it deems necessary from its own separate
254 counsel before entering into this Agreement.
- 255 h. *Waiver.* No waiver of any violation or breach of this Agreement shall be
256 considered to be a waiver of any other violation or breach of this Agreement, and
257 forbearance to enforce one or more of the remedies provided in this Agreement
258 shall not be deemed to be a waiver of that remedy.
- 259 i. *Severability.* If, after the date of execution of this Agreement, any provision of
260 this Agreement is held to be illegal, invalid, or unenforceable under present or
261 future laws effective during the term of this Agreement, such provision shall be
262 fully severable. However, in lieu thereof, there shall be added a provision as
263 similar in terms to such illegal, invalid or unenforceable provision as may be
264 possible and be legal, valid and enforceable.
- 265 j. *Compliance with Laws.* In performing their respective obligations under this
266 Agreement, the Parties shall comply with and conform to all applicable laws,
267 rules, regulations and ordinances.

- 268 k. *No Third-Party Beneficiaries.* This Agreement shall not create any right or
269 interest in any non-Party or in any member of the public as a third party
270 beneficiary.
- 271 l. *Necessary Actions.* Each Party agrees to execute and deliver additional
272 documents and instruments and to take any additional actions as may be
273 reasonably required to carry out the purposes of this Agreement.
- 274 m. *Counterparts.* This Agreement may be executed in one or more counterparts,
275 which may be executed and delivered via facsimile transmission, each of which
276 shall be deemed to be an original, but all of which together shall constitute but
277 one and the same instrument.
- 278 n. *Notices.* All notices, requests, demands or other communications required or
279 permitted under this Agreement shall be in writing unless provided otherwise in
280 this Agreement and shall be deemed to have been duly given and received on:
281 (i) the date of service if served personally or served by facsimile transmission on
282 the Party to whom notice is to be given at the address(es) provided below, (ii) on
283 the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or
284 other similar overnight courier service, postage prepaid, and addressed as
285 provided below, or (iii) on the third day after mailing if mailed to the Party to
286 whom notice is to be given by first class mail, registered or certified, postage
287 prepaid, addressed as follows:

288 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

289 California Regional Water Quality Control Board
290 Santa Ana Region
291 3737 Main St., Suite 500
292 Riverside, CA 92501
293 (951) 782-4130 ph
294 (951) 781-6288 fax

295 CITY OF CORONA

296 City of Corona
297 400 S. Vicentia Avenue
298 Corona, CA 92882-2187
299 (951) 736-2239 ph
300 (951) 736-2231 fax

- 301 CITY OF RIVERSIDE
- 302 City of Riverside
- 303 5950 Acorn Street
- 304 Riverside, CA 92504-1036
- 305 (951) 351-6080 ph
- 306 (951) 351-6267 fax

- 307 EASTERN MUNICIPAL WATER DISTRICT
- 308 Eastern Municipal Water District
- 309 2270 Trumble Road
- 310 Perris, CA 92570
- 311 P.O. Box 8300
- 312 Perris, CA 92572-8300
- 313 (951) 928-3777 ph
- 314 (951) 928-6177 fax

- 315 ELSINORE VALLEY MUNICIPAL WATER DISTRICT
- 316 Elsinore Valley Municipal Water District
- 317 31315 Chaney Street
- 318 Lake Elsinore, CA 92530
- 319 P.O. Box 3000
- 320 Lake Elsinore, CA 92531-3000

- 321 ORANGE COUNTY WATER DISTRICT
- 322 Orange County Water District
- 323 10500 Ellis Avenue
- 324 Fountain Valley, CA 92708-6921
- 325 P.O. Box 8300
- 326 Fountain Valley, CA 92728-8300
- 327 (714) 378-3200 ph
- 328 (714) 378-3371 fax

- 329 SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT
- 330 San Bernardino Valley Municipal Water District
- 331 1350 South "F" Street
- 332 San Bernardino, CA 92408-2725
- 333 P.O. Box 5906
- 334 San Bernardino, CA 92412-5906
- 335 (909) 387-9200 ph
- 336 (909) 387 9247 fax

337 SAN GORGONIO PASS WATER AGENCY

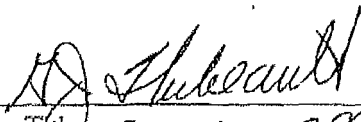
338 San Gorgonio Pass Water Agency
339 1210 Beaumont Avenue
340 Beaumont, CA 92223
341 (951) 845-2577 ph
342 (951) 845-0281 fax

343 WESTERN MUNICIPAL WATER DISTRICT

344 Western Municipal Water District
345 450 E. Alessandro Blvd.
346 Riverside, CA 92508-2449
347 P.O. Box 5286
348 Riverside, CA 92517-5286
349 (951) 789-5000 ph
350 (951) 780-3837 fax

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CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD

By: 
Title: Executive Officer

360 APPROVED AS TO FORM ONLY:
361

362 By: _____

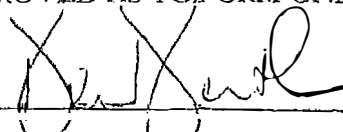
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CITY OF CORONA

By: 
Title: CITY MANAGER
Beth Groves

371 APPROVED AS TO FORM ONLY:

372
373
374

By: 
Best Best & Krieger, LLP
City of Corona Counsel

Memorandum of Understanding to Implement the Cooperative Agreement

Accepted: Wednesday, January 14, 2009

The Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin states, in part, that:

"The Parties that intentionally recharge imported water within the Santa Ana Region (the "Recharging Parties") agree voluntarily to collect, compile and analyze the N/TDS water quality data necessary to determine whether the intentional recharge of imported water in the Region may have a significant adverse impact on compliance with the Salinity Objectives with the Region. To that end, the Recharging Parties will collect, compile and analyze such N/TDS water quality data and prepare, within eighteen months from the effective date of this agreement, and every three years thereafter, a report... The Recharging Parties will agree among themselves regarding the manner in which they will prepare the report and the manner in which they will share the cost of preparing the report."

The remainder of this document describes the agreed upon manner in which the report(s) will be prepared and costs will be shared.

- 1) Each individual Recharging Party will be responsible for preparing the report for all groundwater basins where the Recharging Party is intentionally recharging imported water or intends to recharge imported water at any time between January 18, 2008 and July 18, 2012. If a Recharging Party has no plans to recharge imported water during the aforementioned period, it should so state in a letter to the other signatories to the Cooperative Agreement mailed on or before March 31, 2009.
- 2) The final report(s) must be submitted to the Santa Ana Regional Water Quality Control Board on or before July 18, 2009 in accordance with Resolution No. R8-2008-0019. However, the Recharging Parties have concluded that it is not necessary to "integrate" the individual reports into a single document for submission in July of 2009.
- 3) Each Recharging Party preparing a report will circulate a draft version of the first report(s) to all other Parties to the Cooperative Agreement on or before March 31, 2009. SAWPA will convene and coordinate a meeting approximately 30 days later at which meeting the draft reports will be discussed.
- 4) Each Recharging Party will bear its own costs to prepare the report(s). In addition, the Recharging Parties will share SAWPA's direct administrative costs to implement the Cooperative Agreement equally.

- 5) The Recharging Parties acknowledge that different modeling methods will be used to develop the 20-year projections for groundwater quality in various management zones. Given the complexity of the modeling effort and the acknowledged differences in modeling approaches, the Recharging Parties agree that it would be prudent to assemble a Technical Committee (TC) to assure a high level of quality and consistency between the separate reports. Attendance and participation in the TC is not mandatory and the TC recommendations are not binding. The Recharging Parties have asked SAWPA to coordinate meetings of the Technical Committee. The Regional Water Quality Control Board staff has also agreed to participate on the Technical Committee. Each signatory to the Cooperative Agreement is entitled to name its own representative(s) to the Technical Committee.

- 6) Future integration will be accomplished by staggering delivery dates for the 20-year projections in a manner that assures that long-term estimates of upgradient groundwater quality have been completed and accepted well before a similar projection must be made for each downgradient management zone. Therefore, the Recharging Parties and the Regional Board have agreed that the second set of projection reports will be due in accordance with the schedule shown in Table 1.

Table 1: Due Dates for Second Report Projecting Future Groundwater Quality

*Arlington
Fines Ltd*

Recharging Areas	Report Due Date
Beaumont, Yucaipa and San Timoteo Management Zones	July 18, 2012 and every six years thereafter
Bunker Hill A, Bunker Hill B, Lytle, Rialto and Colton Management Zones	July 18, 2013 and every six years thereafter
Riverside A thru Riverside E and Elsinore Management Zones	July 18, 2014 and every six years thereafter
San Jacinto Area Management Zones	July 18, 2014 and every six years thereafter
Orange County Management Zone	July 18, 2015 and every six years thereafter

- 7) The Santa Ana Regional Water Quality Control Board has agreed that the document entitled: "Recomputation of Ambient Water Quality in the Santa Ana Watershed for the Period 1987 to 2006" (a technical memorandum prepared by Wildermuth Environmental, Inc. for SAWPA's Basin Monitoring Program Task Force) meets all of the obligations identified in Section 4(a) of the Cooperative Agreement for the reports due on July 18, 2009. However, any Recharging Party may also elect to prepare its own independent analysis and submit a separate report as described in Section 4(a) of the Cooperative Agreement.

- 8) For the first report, due in July of 2009, the signatories to the Cooperative Agreement acknowledge that the data needed to estimate future subsurface boundary inflows from upgradient groundwater basins adjacent to their own management zones may not be available. Therefore, the Recharging Parties may elect to assume that TDS and nitrate-nitrogen concentrations are equal to the applicable water quality objective for the upgradient management zone or use the estimated ambient TDS and nitrate-nitrogen concentrations for the upgradient management zone whichever is higher. Where a Recharging Party elects to rely on the estimated ambient TDS or nitrate-nitrogen concentration in the upgradient groundwater management zone to calculate projected water quality in its own management zone such values should be taken from the same report the Recharging Party submitted to fulfill its obligation under section 4(a) of the Cooperative Agreement.
- 9) The Recharging Parties agree that the reports must include a detailed description of the initial water quality conditions (e.g. nitrate-nitrogen concentration and TDS concentration) in the saturated zone of each groundwater management zone for which a 20-year projection is estimated. For the first report, due in July of 2009, the initial conditions will be estimated as of January, 2008. Where actual data is not available for January, 2008 the Recharging Parties may estimate the volume of groundwater and/or salt concentrations from one of the calibrated and validated computer models identified in Section 5(b) the Cooperative Agreement.
- 10) At a minimum, the Recharging Parties agree to prepare and report future water quality projections using the estimated subsurface boundary outflows from the upgradient projections as the estimated subsurface boundary inflows for their own management zone projections. However, nothing in the Cooperative Agreement precludes any Recharging Party from also preparing additional alternative future projections of groundwater quality using different assumptions about the estimated subsurface boundary inflows from upgradient groundwater basins adjacent to their own management zone.
- 11) The Recharging Parties agree that any report submitted pursuant to the Cooperative Agreement will be prepared in accordance with commonly accepted professional standards such as those described in the Board of Geologists and Geophysicist's "Guidelines for Groundwater Investigation Reports" and the California Department of Conservation's Division of Mines and Geology's "Guidelines for Preparing Geologic Reports for Regional-Scale Environmental Resource Management Planning (aka Note 52)."

- 12) Section 4(c)1 of the Cooperative Agreement states that the *"projection of ambient water quality for each groundwater management zone will ... reasonably account for surface fluxes of salt input..."*

The Recharging Parties agree that the following salt in-fluxes must be accounted for when and where they are known to exist:

- * Storm water recharge (incidental and deliberate)
- * Artificial recharge of imported water (incl. State Project Water and Colorado River Water)
- * Artificial recharge from on-site wastewater disposal (e.g. septic systems)
- * Deep percolation of precipitation and agricultural and landscape irrigation water
- * Subsurface boundary inflows from upgradient groundwater basins adjacent to their own management zone
- * Routing recharge flows from all influxes through the vadose zone

The Recharging Parties also agree that the following salt out-fluxes must be accounted for when and where they are known to exist:

- * Groundwater pumping
- * Rising groundwater
- * Evapotranspiration
- * Subsurface boundary outflows to downgradient groundwater basins adjacent to their own management zone

The Recharging Parties agree to certify in the report(s) that each of the salt in-fluxes and out-fluxes identified above have been accounted for in their 20-year projections and to provide a brief explanation as to how each of these fluxes is addressed in the relevant calculations and to provide more detailed technical documentation upon request of any signatory to the Cooperative Agreement.

- 13) The Recharging Parties acknowledge that the obligations of the Cooperative Agreement and the principles described in this Memorandum of Understanding apply only to the signatories to the Cooperative Agreement and have no binding effect on other persons or agencies in the region that may be engaged in similar water resource management activities.