

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, California 92223

Official Minutes
Board of Directors Regular Meeting
August 4, 2025

THIS MEETING WAS HELD IN PERSON,
WITH PUBLIC AVAILABILITY PROVIDED VIA ZOOM

1. Call to Order, Pledge of Allegiance, and Invocation

The San Gorgonio Pass Water Agency Board of Directors meeting was called to order by Board President Mickey Valdivia at 1:30 p.m., Monday, August 4, 2025, at the office of the Agency. Director Smith provided the invocation, and Treasurer Ybarra led the Pledge of Allegiance.

2. Roll Call

President Valdivia requested a roll call.

Board Present:

Mickey Valdivia, President
Chander Letulle, Vice-President
Robert Ybarra, Treasurer
Kevin Walton, Secretary – via teleconference
Blair M Ball, Director – arrived at 1:36 p.m.
Sarah Wargo, Director
Larry Smith, Director

Staff Present:

Lance Eckhart, General Manager
Thomas Todd, Jr., Chief Financial Officer
Maricela Cabral, Exec. Asst./Clerk of the Board
Emmett Campbell, Sr. Water Resources Planner

Consultants Present:

Holland Stewart, Legal Counsel
Jeff Ferre, Legal Counsel

A quorum was present.

Counsel Stewart confirmed with Secretary Kevin Walton that the Brown Act requirements for teleconference meetings were adhered to for Secretary Kevin Walton's participation from the following location: 3744 S. Carlisle Park Place #3, South Salt Lake City, Utah, 84119.

3. Adoption and Adjustment of Agenda

The agenda was adopted as published.

4. Public Comment

No public comment received.

5. Consent Calendar

- A. Approve Minutes of the July 21, 2025, Regular Meeting of the San Gorgonio Pass Water Agency Board of Directors
- B. Approve Finance and Budget Committee Meeting Report for July 2025

On a motion by Treasurer Ybarra, seconded by President Valdivia, the board approved the Consent Calendar as presented.

Approved by the following roll call vote:

Ayes: Smith, Walton, Wargo, Ybarra, Letulle, Valdivia

Noes: None

Absent: None

Abstain: Ball

Motion passed 6-0-1.

6. Reports

A. General Manager's Report

General Manager, Lance Eckhart reported on the following:

- 1. July 23, 2025, presentation to the San Gorgonio Pass Regional Water Alliance on regional economic health, featuring Beacon Economics data
- 2. Upcoming presentation by Dr. Christopher Thornberg of Beacon Economics
- 3. Update on the progress of the Urban Water Management Plan, with potential collaboration from local agencies
- 4. Reminder of the August 8, 2025, Southern California Water Conference where he will lead a session on emergency preparedness

B. Legal Counsel's Report

Counsel Stewart had no report.

7. New Business – Discussion and Possible Action:

A. Reject the bid from Borden Excavating Inc., as non-responsive, acknowledge James McMinn, Inc. bid protest, and Award a Construction Contract to James McMinn, Inc., as the lowest responsive and responsible bidder for the Construction of the County Line Road Recharge Basin Project, in the amount of \$4,987,952.82, and approve Resolution No. 2025-06

Sr. Water Resources Planner Campbell reviewed the bid history for the County Line Road Recharge Basin Project in Calimesa. Six bids were received; the engineer's estimate was \$5 million. The apparent low bidder, Borden Excavating, Inc., and the second lowest bidder, James McMinn Inc. (JMI), submitted bids close to the estimate. After initial review, a Notice of Intent to Award was sent to Borden on July 24, 2025. The next day, JMI submitted a bid protest citing Borden's failure to include the required percentage of work for each subcontractor in their bid forms.

Legal Counsel Vasquez (BB&K), explained that under applicable case law (including *Valley Crest Landscape* and *MCM Construction*), omitting subcontractor percentage allocations constitutes a material deviation because it allows the bidder to withdraw without forfeiting its bid bond. This is a non-waivable defect under Public Contract Code § 5103. While Borden provided the percentages within nine minutes of the

Agency's request, this occurred after bid opening and could not cure the defect. JMI's bid was also reviewed; minor irregularities were found but deemed waivable.

The following individuals provided comment on the item:

- Bryce Borden
- Gerald Mouzis
- Jim Tickemyer
- Brett Granlund

The board took a recess at 2:35 p.m. to review supplemental communication; President Valdivia reconvened the meeting at 2:40 p.m.

The board discussed the awarding of the construction contract, fairness concerns, potential delays from legal challenges, and irregularities in both bids. The Board agreed on the need to safeguard ARPA funding timelines while upholding the integrity of the competitive bid process.

Primary Motion:

Motion was made by President Valdivia, seconded by Director Smith, to reject the bid from Borden Excavating, Inc., as non-responsive, acknowledge James McMinn, Inc. bid protest, and Award a Construction Contract to James McMinn, Inc., as the lowest responsive and responsible bidder for the Construction of the County Line Road Recharge Basin Project, in the amount of \$4,987,952.82, and approve Resolution No. 2025-06.

Roll call vote:

Ayes: Smith, Valdivia

Noes: Walton, Wargo, Ybarra, Letulle, Ball

Absent: None

Motion failed 2-5.

Secondary Motion:

Motion was made by Director Ball, seconded by Secretary Walton, to reject all bids and rebid the County Line Road Recharge Basin Project.

Roll call vote:

Ayes: Walton, Wargo, Ybarra, Letulle, Ball

Noes: Smith, Valdivia

Absent: None

Motion passed 5-2.

8. Reports - Directors and Committee Report

The following meetings were reported on:

- July 22, 2025, Cabazon EIFD meeting (Wargo)
- July 23, 2025, San Geronio Pass Water Alliance Meeting (Wargo)
- July 24, 2025, Finance & Budget Committee Meeting (Walton)
- July 24, 2025, Beaumont-Cherry Valley Water District Engineering Workshop (Wargo & Ball)

Director Ball announced that arrangements are underway to schedule a Board Handbook Committee meeting.

Directors Smith, Ybarra, Letulle, and Valdivia had no report.

9. Topics for Future Agendas

Secretary Walton inquired about scheduling the annual Pass Water Agency Foundation meeting in September.

10. Closed Session Agenda

A. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) and initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9

Two potential cases

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code Section 54956.8

Property: Water rights/supplies – Eastside Water Bank

Agency negotiator: Lance Eckhart, General Manager

Negotiating parties: Antelope Valley-East Kern Water Agency

Under negotiation: price and terms of payment

C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Government Code Section 54957

Title: General Counsel

11. Reconvene

A. Report out of Closed Session

President Valdivia reconvened the meeting into Open Session. Counsel Stewart reported there was no reportable action on items 10.A, 10.B, or 10.C. Counsel Ferre announced Best Best & Krieger will continue as General Counsel, with Holland Stewart designated as primary counsel.

12. Announcements

President Valdivia reviewed the following announcements:

A. Southern California Water Conference, August 8, 2025 at 7:00 a.m.

B. Water Conservation & Education Committee Meeting, August 12, 2025 at 1:30 p.m.

C. Regular Board Meeting, August 18, 2025 at 6:00 p.m.

D. Urban Water Institute Annual Conference, August 20, 2025

E. Finance & Budget Committee Meeting, August 28, 2025 at 10:00 a.m.

F. Office closed September 1, 2025, in observance of Labor Day

13. Adjournment

There being no further business to discuss, President Valdivia adjourned the meeting at 4:30 p.m. The next regularly scheduled meeting is Monday, August 18, 2025, at 6:00 p.m.

Maricela V. Cabral, CMC, CPMC
Deputy Secretary of the Board

DRAFT