

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT  
BOARD OF DIRECTORS

BOARD MEETING  
AGENDA

**February 10, 2010 - 1:30 p.m.**

Location--1630 West Redlands Boulevard, Suite A, Redlands, California

Note: Copies of staff reports and other documents relating to the items on this agenda are on file at the District offices and are available for public review during normal District business hours. New information relating to agenda topics listed, received, or generated by the District after the posting of this agenda, but before the meeting, will be made available upon request at the District offices.

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**CALL TO ORDER**  
**PLEDGE OF ALLEGIANCE**  
**ROLL CALL**

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**1. PUBLIC PARTICIPATION**

*Members of the public may address the Board of Directors on any item that is within the jurisdiction of the Board; however, no action may be taken on any item not appearing on the agenda unless the action is otherwise authorized by Subdivision (b) Section 54954.2 of the Government Code.*

**2. ADDITIONS/DELETIONS TO AGENDA**

*Section 54954.2 provides that a legislative body may take action on items of business not appearing on the posted agenda under the following conditions: (1) an emergency situation exists, as defined in Section 54956.5; (2) a need to take immediate action and the need for action came to the attention of the District subsequent to the agenda being posted; and (3) the item was posted for a prior meeting occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.*

**3. BOARD DISCUSSION ITEMS**

- Monthly Activity Reports, and/or Comments by Board Members

**4. CONSENT CALENDAR**

- Approval of the Special Board Meeting Minutes, January 25, 2010
- Approval of the Board Meeting Minutes, January 27, 2010

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It is the intention of the San Bernardino Valley Water Conservation District to comply with the Americans with Disabilities Act (ADA) in all respects. If you need special assistance with respect to the agenda or other written materials forwarded to the members of the Board for consideration at the public meeting, or if as an attendee or a participant at this meeting you will need special assistance, the District will attempt to accommodate you in every reasonable manner. Please contact Ms. Shanae Smith (909-793-2503) at least 48 hours prior to the meeting to inform her of your particular needs and to determine if accommodation is feasible. Please advise us at that time if you will need accommodations to attend or participate in meetings on a regular basis.

5. **INFORMATION ITEMS:**

- A. Board Committee Reports
- B. Wash Plan Update (Randy Scott)
- C. Finance Supervisor's Report (Samantha Brown)
- D. Assistant General Manager's Report (Claud Seal)
- E. General Manager's Report (Robert Neufeld)
  - LOCAL AGENCY FORMATION COMMISSION (LAFCO)  
February 17, 2010 Regular Meeting Agenda Review

6. **ACTION ITEMS, NEW BUSINESS**

- A. DRAFT WASH PLAN HABITAT CONSERVATION PLAN (HCP) AND INCIDENTAL TAKE PERMIT APPLICATION  
*Recommendation:* Authorize the General Manager to submit the Draft Wash Plan Habitat Conservation Plan (HCP) and associated Incidental Take Permit Application to the U.S. Fish and Wildlife Service
- B. PAYMENT OF PAST DUE INVOICES ON THE WASH PLAN ENVIRONMENTAL IMPACT STATEMENT (EIS) AND HCP  
*Recommendation:* Approve payment of past due invoices from District reserve fund, in the amount of \$42,428.99
- C. WASH PLAN FINANCIAL ANALYSIS AND PRESENTATION BY INTEGRATED RESOURCE MANAGEMENT (IRM) ON ENVIRONMENTAL MITIGATION BANKING OPPORTUNITIES  
*Recommendation:* Discuss and consider proposal to freeze Wash Plan effort during this period of economic urgency, and pursue alternate uses for designated plan area, as recommended by the Administrative Committee
- D. APPROVAL OF FY 09-10 BUDGET REVISIONS  
*Recommendation:* Discuss and Consider revised and proposed budget for FY 09-10 for the General Fund and Redlands Plaza budgets, as recommended by the Administrative Committee
- E. CONSIDER REDUCING NUMBER OF APPROVED MEETINGS FOR DIRECTORS  
*Recommendation:* Discuss and consider approval for proposed reduction of approved meetings for Directors from ten to nine, as recommended by the Administrative Committee
- F. REVIEW DISTRICT'S WESTCAS AND WATER EDUCATION FOUNDATION MEMBERSHIPS  
*Recommendation:* Direct staff not to renew participation in WESTCAS, and Water Education Foundation memberships at the end of the current membership period, as recommended by the Administrative Committee

G. CONSIDER REQUEST TO REIMBURSE DIRECTOR MCDONALD'S EXPENSES

**Recommendation:** Approve request for reimbursement, in an amount not to exceed \$424.16

H. CONSIDER LAFCO ALTERNATIVE APPORTIONMENT FORMULA FOR FY 2010-11 AND THEREAFTER

**Recommendation:** Discuss and consider proposed modification in funding formula for the Districts' share of the LAFCO cost for Fiscal Year 2010-11 and thereafter

I. APPROVE HICKS RICHARDSON ASSOCIATES CONTRACT AMENDMENT FOR LEGISLATIVE ADVOCACY SERVICES

**Recommendation:** Approve ninth amendment to Hicks Richardson Associates contract, retroactive to July 1, 2009, expiring June 30, 2010

J. CONSIDER APPROVAL OF REGULAR BOARD MEETING DATE CHANGE

**Recommendation:** Discuss and consider meeting date change for the February 24, 2010 Board meeting due to the Association of California Water Agencies' (ACWA) Washington D.C. Conference

K. APPROVE AMENDMENT TO DECEMBER 11, 2009 BOARD MEETING MINUTES

**Recommendation:** Authorize staff to amend the Minutes of the December 11, 2009 Board Meeting

7. **UPCOMING MEETINGS:**

1. February 11, 2010 - Upper Santa Ana Water Resources Association, District Office, 9:30 a.m.
2. February 18, 2010 - Three Valleys Municipal Water District Leadership Breakfast, Sheraton Fairplex Suites, 601 W. McKinley Ave., Pomona, 7:30 a.m. to 9:30 a.m.
3. February 18, 2010 - ACWA Water Management Committee Meeting, Sacramento, 10:00 a.m. to 1:00 p.m.
4. February 19, 2010 - ACWA Legislative Committee Meeting, Sacramento, 10:00 a.m. to 12:00 p.m.
5. February 17-19, 2010-WESTCAS Winter Conference "*Sustainability & Stewardship*," Embassy Suites, Albuquerque, NM.
6. February 23-25, 2010-ACWA Washington, D.C. Conference, Washington Court Hotel, Washington, D.C.
7. March 2, 2010 - ACWA Communications Committee Meeting, ACWA offices in Sacramento, 10 a.m. to 3 p.m.
8. March 4-5, 2010 - Special District and Local Government Institute Governance Seminar, Hyatt Regency Huntington Beach Resort & Spa, Huntington Beach (registration deadline February 12, 2010)

9. March 17, 2010 - ACWA Legislative Symposium, Sacramento Convention Center - **Board Approval Required**

8. **CLOSED SESSION**

Under the authority of Government Code Section 54957(b), the Board may recess to Closed Session regarding a personnel matter;

**and/or**

Under the authority of Government Code Section 54956.9(c), the Board may recess to Closed Session to consider whether to initiate litigation;

**and/or**

Under the authority of Government Code Section 54956.9(b)(3)(a), and Section 54956.9(c), and Section 54956.9(b)(1), the Board may recess to Closed Session to confer with legal counsel regarding significant exposure to litigation in one case.

9. **ADJOURN MEETING.** The next regular Board meeting will be on February 24, 2010 at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Suite A, Redlands, CA.

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT  
BOARD OF DIRECTORS

MINUTES OF THE SPECIAL BOARD MEETING OF  
January 25, 2010  
8:00 A.M.

President Clare Henry Day called the Special Board Meeting of the Board of Directors to order at 8:00 a.m. All present stood for the pledge of allegiance, led by President Day.

ROLL CALL:

BOARD MEMBERS PRESENT:

Clare Henry Day, President  
Melody McDonald, Vice President  
Manuel Aranda, Director  
Richard Corneille, Director  
John Longville, Director  
David E. Raley, Director

BOARD MEMBERS ABSENT:

Arnold Wright, Director

GENERAL COUNSEL PRESENT:

David Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

R. Robert Neufeld, General Manager  
Claud Seal, Assistant General Manager/District Engineer

GUESTS PRESENT:

Will McMullan, McMullan & Associates

1. PUBLIC PARTICIPATION

John Withers, California Strategies

President Day announced this as the time for any persons present, who so desire, to make an oral presentation to the Board of Directors. Hearing none, the meeting proceeded with the published agenda items.

2. ACTION ITEMS, NEW BUSINESS, FYI

Will McMullan of McMullan and Associates, led a discussion regarding implementation of the Strategic Plan.

3. ADJOURN MEETING

At 12:00 p.m., the meeting adjourned to the Board Meeting scheduled for January 27, 2010, at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA.

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R. Robert Neufeld  
Secretary of the Board

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT  
BOARD OF DIRECTORS

MINUTES OF THE BOARD MEETING OF  
January 27, 2010  
1:30 P.M.

President Clare Henry Day called the Board Meeting of the Board of Directors to order at 1:30 p.m. All present stood for the pledge of allegiance, led by President Day.

ROLL CALL:

BOARD MEMBERS PRESENT:

Clare Henry Day, President  
Melody McDonald, Vice President  
Manuel Aranda, Director  
Arnold Wright, Director  
John Longville, Director (1:42 P.M.)  
Richard Corneille, Director  
David E. Raley, Director

BOARD MEMBERS ABSENT:

None

GENERAL COUNSEL PRESENT:

David Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

R. Robert Neufeld, General Manager  
Claud Seal, Assistant General Manager/District Engineer  
Samantha Brown, Finance Supervisor  
Shanae Smith, Executive Assistant II

GUESTS PRESENT:

Don Lee, Tetrattech  
Charles Roberts, Highland Community News

1. PUBLIC PARTICIPATION

President Day announced this as the time for any persons present, who so desire, to make an oral presentation to the Board of Directors.

On behalf of the Association of California Water Agencies Joint Powers Insurance Authority (ACWA/JPIA), Vice President McDonald presented the District with a check in the amount of \$16,767.18 for retrospective premium adjustments relative to the District's workman's compensation insurance low risk ratio pool. She said that as an Executive Committee member of ACWA/JPIA, she had the pleasure of making presentations to several agencies and congratulated the District on a job well done.

## **2. ADDITIONS/DELETIONS TO AGENDA**

David Cosgrove stated that staff received a proposal, after the agenda was posted, from JDM Excavation, relative to the maintenance work occurring in the Mill Creek spreading ponds. He requested an addition to the agenda, as Item 6E, for consideration and possible action of that proposal.

**It was moved by Director Aranda and seconded by Director McDonald to add "*Consideration of the JDM Excavation Proposal*," to the Agenda as Item 6E. The motion carried unanimously.**

## **3. BOARD DISCUSSION ITEMS**

Director Corneille reported attending the retirement dinner honoring Randy Van Gelder, former General Manager of the San Bernardino Valley Municipal Water District (SBVMWD), and the District's Strategic Planning Workshop. He said he is scheduled to attend the SBVMWD Advisory Commission on Water Policy meeting on January 28, 2010.

Director Raley reported attending the Upper Santa Ana Wash Land Management Plan (Wash Plan) and Habitat Conservation Plan (HCP) Ad Hoc Committee meeting to review the draft HCP; and the Strategic Planning Workshop.

Director Aranda reported attending the ACWA Legislative Committee meeting in Sacramento regarding legislation opposed by ACWA, which prohibits Governor Schwarzenegger's authorization to call for a peripheral canal. He also reported attending the District's Strategic Planning Workshop.

Director Wright reported attending the regular Board meeting and the Resources Committee meeting.

Director McDonald reported attending the retirement dinner for Mr. Van Gelder; the Strategic Planning Workshop; and the Wash Plan HCP Ad Hoc Committee meeting to discuss the Wash Plan HCP revisions. She said she attended the Association of San Bernardino County Special Districts dinner at the Panda Inn, where Kathleen Rollings-



McDonald, the Executive Officer for the Local Agency Formation Commission (LAFCO), and Larry McCallum were the guest speakers on the topic of SB 375.

Director Longville reported attending the regular Board meeting and Strategic Planning Workshop. He said he is scheduled to attend the San Bernardino Chamber Area of Commerce (SBACC) Annual Installation dinner scheduled later in the evening.

President Day reported attending the Resources Committee meeting and the Strategic Planning Workshop.

#### 4. CONSENT CALENDAR

Minutes of the January 13, 2010 Board meeting were reviewed. Minor word changes were noted. Director McDonald requested clarification for the motion regarding "Direction from the Board for Participation in ACWA Legislative Committee Meetings." A discussion ensued regarding the interpretation of the language in the motion. The Board agreed that the motion would remain as written.

**It was moved by Director McDonald and seconded by Director Longville to approve the minutes of the Board meeting of January 13, 2010, as amended. The motion carried unanimously.**

Director Raley requested clarification regarding the AB303 budget item indicated on the financial reports. Shanae Smith stated that the AB303 is in reference to the Local Groundwater Assistance Grant that was awarded the District from the Department of Water Resources (DWR). Samantha Brown said that the item was originally budgeted for \$250,000, which was revised at the first quarter budget review, and decreased to \$100,000. Mr. Neufeld said that the District began budgeting for the funds in 2008, in anticipation of receipt of those funds. He said staff elected to decrease the amount at the end of the first quarter during the budget revision. Ms. Smith, as Grants Administrator representing the District, reported the District would receive that amount this fiscal year.

Director Corneille asked about the re-evaluation of the Exchange Plan indicated in the staff report. Ms. Brown said the amount was budgeted at \$25,000, which has already been received and will be increased. A discussion ensued regarding the terms of the Exchange Plan agreement and the costs captured and billed for actual time spent for the District's operations.

**It was moved by Director Corneille and seconded by Director Wright to accept the Un-Audited Financial Reports for December, 2009. The motion carried unanimously.**

#### 5. INFORMATION ITEMS

##### A. Board Committee Reports

President Day announced that the Wash Plan Ad Hoc Committee had completed its duties for the review of the final draft HCP.

#### B. Wash Plan Update

No report was given for this meeting.

#### C. Financial Report

Ms. Brown reported that staff is currently working on the semi-annual budget review. She said a draft budget proposal and draft Wash Plan cost analysis will be reviewed by the Administrative Committee on February 3, 2010 and brought back before the full Board. A Board budget workshop will be scheduled in March for FY10-11. She said staff will be recommending approval of the Statement of Investment Policy, indicated on the agenda as discussed at the January 13, 2010 Board meeting. She said at this time, investment policy options would not be discussed, due to a conversation with a senior investment strategist regarding investing the District's restricted money for a period of two years or more. A return higher than the Local Agency Investment Fund (LAIF) would not be available to the District at this time. A discussion ensued regarding the District's restricted funds and the terms of the mining royalty agreements.

#### D. Assistant General Manager's Report

Mr. Seal made the following announcements:

1. We have continued spreading natural water in our Mill Creek spreading basins. Initial runoffs have contained too much mud and silt to capture. We are now diverting about 18 cfs. We have been spreading about 3 to 4 cfs of Santa Ana River water and have had a brief surge due to the Seven Oaks Dam SOD releasing up to 25 cfs of water temporarily to clear out water that was being diverted into the discharge tunnel. The tunnel gates leaked and didn't allow complete filling operation so it was emptied yesterday. The tunnel gates will be recalibrated today and the tunnel refilled tonight and tomorrow.
2. As of yesterday, the Seven Oaks Dam (SOD) water reservoir level was at 2208-feet (msl), or at the "Intermediate Water Level." This is above the basic debris level required to contain debris behind the dam. This new water elevation storage capacity is 3653 AF. Upstream watershed inflow was calculated to be 116.5 cfs. Total dam capacity, when the reservoir is full, is 115,000 AF.
3. Although there has been substantial rain and snow fall in upper mountain elevations, especially in Northern California, the DWR still forecasts only 5% of the annual state water contractors' allocation will be available later this year. We should have a new forecast in about a month.
4. The District's head field Operator, Randy Carlisle, has been placed on disability leave for the last two weeks, due to a partial disability that has not been medically corrected. He is continuing to be paid and his position with the District

has not been filled, nor do we anticipate hiring anyone new at this time. Given his ongoing treatments for nearly a year, we were required by our insurance carrier (ACWA JPIA) to either allow him to continue doing his job for the remainder of his employment with the District under a partial disability restriction, or to place him on disability leave until the problem was corrected. Randy is pursuing medical remedy now.

5. A potential major restriction on the usage of the Santa Ana River and Mill Creek channels due to expanded controlled reaches on all the area rivers is looming in the near future. The Federal and State Environmental Protection Agencies are proposing to place severe restrictions on river channel access and usage due to endangered "Santa Ana Sucker" species. This problem was addressed in 2003 and dismissed. Now it is back again. SBV Municipal Water District is now leading a campaign to initiate correspondence to the EPA officials, to drop the issue once and for all. Staff would like to address the problem by writing a letter to the EPA in support of not instituting the proposed restrictions.
6. The Valley District sponsored Enhanced Water Storage Facilities Project kickoff meeting was held yesterday and Black and Veatch Engineering was able to have most of their design goals and issues addressed. Along with Manuel Colunga, I will be leading a group of designers and biologists on a tour of the Santa Ana River water capture and distribution system on this coming Friday morning.
7. The preparation of the Engineering Investigation Report is progressing satisfactorily and should be completed, with additional information, on time.

Director Corneille asked for clarification on the official name and purpose of the study being conducted by Black and Veatch. Mr. Seal said the official name of the study is Enhanced Water Storage Facilities Project, which includes the preliminary design with evaluation of several different approaches and routing and pipelines and construction contract documents for the Santa Ana River environmental documents. Director McDonald asked whether the study will enable SBVMWD to submit applications of the storm water run-off. Mr. Cosgrove stated that the SBVMWD's implementation of additional facilities would occur under the easement agreement granted to SBVMWD to utilize the District's properties and existing facilities, subject to the District's review and approval. He said the additional facilities will be used as a potential application for storm water. A discussion ensued.

#### E. General Manager's Report

Mr. Neufeld summarized a report from the District's lobbyist in Washington, D.C., regarding an article on the subject of the restoration and rehabilitation of wetlands. He stated that a model had been developed by scientists predicting the level of methane emissions from wetlands that may help to understand climate change.

Mr. Neufeld reported that the LAFCO's apportionment formulas for the 2010/2011 fiscal year have been reduced by 60% for the District. He briefly summarized special districts' varying in size throughout the county under LAFCO's jurisdiction. The District will need to submit its vote by March 1, 2010.

Mr. Neufeld stated that the collaborative presentations regarding water resource projects had been completed with the General Managers from the San Bernardino Valley Water Conservation District, San Bernardino Valley Municipal Water District, and Western Municipal Water District (WMWD), and that implementation plans will be presented to the members of the Board at the second meeting in March.

Mr. Neufeld distributed a hand-out regarding the economic forecast for the Inland Empire. He said the full presentation is available, as he referenced one slide regarding the prediction of the economy and its recovery in 2011.

Mr. Neufeld referenced six proposed elements resulting from the Strategic Planning Workshop. He said staff met with Will McMullan of McMullan & Associates to establish objectives and discuss specific tasks to implement the plan, to bring back to the Board for adoption in April.

#### 6. ACTION ITEMS, NEW BUSINESS, FYI

##### A. Discussion With Board of Directors Regarding Proposed Revenue Enhancements and Cost Savings

Mr. Neufeld distributed staff's and Direct Raley's proposed cost reduction handouts. He stated that staff solicited input from the members of the Board regarding significant savings for the organization with various cost reductions. He asked the Board to review the hand-out and provide direction to staff. Director Aranda stated that a special workshop should be scheduled to discuss the proposed cost reductions, as the changes would be significant to the organization as a whole. A lengthy discussion ensued regarding taking staff's recommendations to the Administrative Committee to begin dialogue and possible recommendations.

**It was moved by Director Aranda and seconded by Director Wright to refer Item A to the Administrative Committee for a recommendation.**

Discussion continued. After discussion, the following motion was made:

**It was moved by Director Day and seconded by Director Wright to terminate the discussion. The motion failed to secure the required votes for passage.**

Discussion continued. The Board proceeded to vote upon the main motion.

**The motion carried 6-1, with Director McDonald opposed.**

B. Discussion of 2010 District Investment Policy

**It was moved by Director Raley and seconded by Director Longville to approve the 2010 District Investment Policy. The motion carried unanimously.**

C. Consider Resolution NO. 455, In Support of Concurring Nomination of E.G. “Jerry” Gladbach for Office of President of the ACWA/JPIA Board of Directors

**It was moved by Director McDonald and seconded by Director Aranda to Adopt Resolution No. 455, In Support of the Concurring Nomination of E.G. “Jerry” Gladbach for Office of President of the ACWA/JPIA Board of Directors. The motion carried unanimously.**

D. Authorize Staff to Send Comment Letter to United States Fish and Wildlife Service (USFWS) Regarding Proposed Revised Critical Habitat Designation for the Santa Ana Sucker on Behalf of the District

**It was moved by Director Corneille and seconded by Director Raley to Authorize Staff to Send Comment Letter to United States Fish and Wildlife Service (USFWS) Regarding Proposed Revised Critical Habitat Designation for the Santa Ana Sucker on Behalf of the District. The motion carried unanimously.**

Director Aranda suggested that the Board consult with Fred Hicks of Hicks Ray Associates, the District’s Washington DC lobbyist, regarding current legislation and the Environmental Protection Agency (EPA).

E. Excavation Proposal from JDM Excavation

David Cosgrove summarized the proposal from JDM Excavation for royalties in the Mill Creek spreading grounds. He said staff would like to move forward on an expedited basis. President Day requested the estimated amount of the potential revenues of said agreement. Mr. Neufeld stated the initial amount would range from roughly \$3,000 per month, not limited to stockpiles or what has been extracted from the basin. He said essentially the arrangement entails JDM Construction receiving payments for maintenance of the basin, and the District in turn would be paid royalties for the extractions. A discussion ensued regarding the terms of the agreement.

**It was moved by Director McDonald and seconded by Director Corneille to Authorize Staff and Legal Counsel to Develop an Agreement Based on the JDM Excavation Proposal, Not To Exceed One year, and to Make a Finding that the Action is Categorically Exempt Under Title 14 California Code of Regulations, (1) Section**

**15302 Maintenance to Existing Facilities, and 2) Section 15304(g) Minor Alteration of Land. The motion carried unanimously.**

7. UPCOMING EVENTS

**It was moved by Director Raley and seconded by Director Wright to Approve Director Aranda's Attendance to the Three Valleys Municipal Water District Leadership Breakfast. The vote carried 6-1, with President Day abstaining.**

Director Aranda stated that he is a Director of WESTCAS representing the state of California, and that he reports to the USAWRA at its monthly meeting, as well as to the Board of Directors. He said the costs were minimal compared to other conference expenses. Director McDonald stated that the Board of Directors Policy Manual for the Conduct of Business of the Board states that the President and Vice President of the Board are authorized to attend. A discussion ensued regarding Directors fees and registration fees associated with the conference and the benefit to the District for attendance.

**It was moved by Director Longville and seconded by Director McDonald to Approve the Attendance of Director Aranda to the WESTCAS Winter Conference. The motion carried 6-1, with Director Raley opposed.**

Discussion continued. Director Raley requested to amend the motion to not include Director's fees. A discussion ensued regarding the budget revision process concerning membership dues and the number of conferences budgeted per year.

8. CLOSED SESSION

**At 4:25 p.m., it was moved by Director Day and seconded by Director Aranda to adjourn to Closed Session, Government Code Section 54957(b)(1), to discuss the performance evaluation of the General Manager, and Government Code Section 54956.9(b)(3)(a), and Section 54956.0(c), and Section 54956.0(b)(1), confer with legal counsel regarding significant exposure to litigation in one case. The motion carried unanimously.**

The Closed Session adjourned at 4:31 p.m., and the regular meeting reconvened, with no reportable action.

9. ADJOURN MEETING

At 4:31 p.m., the meeting adjourned to the regular Board meeting scheduled for February 10, 2010, at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Suite A, Redlands, CA.

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R. Robert Neufeld  
Secretary of the Board



# SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT

Established 1932

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(909) 793-2503  
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[www.sbvwcd.dst.ca.us](http://www.sbvwcd.dst.ca.us)

**To: Board of Directors**

**From: Randy Scott, Wash Plan Project Manager**

**Date: February 10, 2010**

**Subject: Draft Wash Plan HCP and Incidental Take Permit Application**

## **RECOMMENDATION**

Authorize the General Manager to submit the Draft Wash Plan Habitat Conservation Plan (HCP) and associated Incidental Take Permit Application to the U.S. Fish and Wildlife Service

## **BACKGROUND:**

The Administrative Draft of the Wash Plan Habitat Conservation Plan (Admin Draft HCP) was completed in October 2009. This is the last major component of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (Wash Plan) program. Upon authorization by the Board, the Draft HCP will be submitted to the U.S. Fish and Wildlife Service (USFWS). The USFWS will evaluate the Draft HCP in consideration of the District's application for an Incidental Take Permit (ITP, aka 10a Permit). Submittal of the Draft HCP is a significant milestone in the development of the Wash Plan program and is the last major procedure required to implement the plan.

The Wash Plan Task Force reviewed the Draft HCP on November 3, 2009 and recommended that the Board of Directors of the Water Conservation District authorize submittal to the USFWS. The Board, however, indicated its desire to examine the plan further and established an Ad Hoc Committee to conduct further review with staff and the consultant.

The Ad Hoc Committee has met on three occasions. At its last meeting held on January 26, 2010, the committee indicated that it was satisfied with revisions that have been made to the document and stated its desire to have the document authorized by the full Board for submittal to the USFWS.

The reader is directed to the Executive Summary, pages S-1 through S-23 for a condensed description of the key elements of the plan. The full text is contained in six chapters on pages 1-1 through 6-2. Chapters 7, 8 and 9 are supporting material of references, list of preparers and glossary, respectively. All figures are included as a package at the end of the document.

The following is a short list of key elements of the plan presumed to be of most interest to the Board of Directors:

BOARD  
OF  
DIRECTORS

Richard W. Cornelle  
Clare Henry Day

Arnold L. Wright  
John Longville

David E. Raley  
Melody McDonald  
Manuel Aranda, Jr.

GENERAL  
MANAGER

R. Robert Neufeld



## **Covered Species**

USFWS is being asked to authorize incidental take of four federally listed species:

- San Bernardino kangaroo rat (*Dipodomys merriami parvus*, SBKR),
- California gnatcatcher (*Poliophtila californica californica*, Gnatcatcher),
- Santa Ana River woollystar (*Eriastrum densifolium* ssp. *sanctorum*, Woollystar), and
- Slender-horned spineflower (*Dodecahema leptoceras*, Spineflower).

Woollystar and Spineflower are State as well as federally listed species, and the SBVWCD also is seeking State authorization for take of those species from the California Department of Fish and Game (CDFG).

## **Covered Parties**

The parties that will be covered by the authorizations for incidental take are: SBVWCD, City of Redlands (including the Redlands Municipal Utility District), City of Highland, San Bernardino County Flood Control District (SBCFCD), Cemex Inc. (Cemex), and Robertson's Ready-mix (Robertson's).

## **Permit Term**

The SBVWCD is seeking a 50-year Incidental Take Permit.

## **Biological Goals**

The biological goals of the HCP are as follows:

- Goal 1: Conserve habitats in the plan area in a configuration that will sustain populations of SBKR, Woollystar, and Spineflower while also supporting Gnatcatcher and other special status species.
- Goal 2: Conserve habitat linkages across and to areas outside the plan area in order to provide connectivity between populations of covered species and provide opportunities for wildlife movement through the Wash.
- Goal 3: Conserve at least one acre of SBKR habitat for each acre removed by covered activities, and provide for the management of at least two acres (including the acres conserved) for each acre removed.
- Goal 4: Conserve at least as many Woollystar locations as are removed by covered activities, and provide for the management of those locations and suitable Woollystar habitat outside the WSPA in the plan area.
- Goal 5: Mitigate the effects of Spineflower take and contribute to the recovery of Spineflower through the implementation of a Spineflower relocation and enhancement program in cooperation with USFWS and CDFG.

- Goal 6: Conserve foraging and nesting habitat for Gnatcatcher within the plan area.
- Goal 7: Control the spread of non-native invasive plant species within the plan area and enhance the habitat conserved under the HCP for the covered species by removing such non-native invasive plants.

### **Habitat Conservation and Management**

SBVWCD and the other participating agencies will provide for the permanent conservation and management of approximately 735 acres (the Newly Conserved Lands on Figure S-1) and provide for the enhanced management and monitoring of an additional 598 acres (the Additionally Managed Lands on Figure S-1). The Newly Conserved and Additionally Managed Lands are contiguous with one another and with the WSPA. They also maintain north-south habitat linkages across the plan area and to natural open space outside the plan area to the southeast and northwest. Table S-6 indicates estimated take in relation to the species' resources on Newly Conserved and Additionally Managed Lands.

**Table S-6. Newly Conserved Lands and Additionally Managed Lands in Relation to Estimated Impacts**

Covered Species	Estimated Impacts <sup>1</sup>	Conservation/Mitigation		
		On Newly Conserved Lands	On Additionally Managed Lands	Total
SBKR (acres) <sup>2</sup>				
Habitat with High Suitability	199.99	282.71	314.70	597.41
Habitat with Moderate Suitability	195.36	155.09	200.94	356.03
Habitat with Low Suitability	62.78	297.25	82.67	379.92
Estimated Additional Impacts <sup>3</sup>	153.00	0	0	0
Total	611.13	735.05	598.31	1333.36
Gnatcatcher (acres)				
Foraging Habitat	451.10	704.25	586.50	1290.75
Potential Nesting Habitat	7.72	30.64	0	30.64
Estimated Additional Impacts <sup>3</sup>	153.00	0	0	0
Total	611.82	734.89	586.5	1321.39
Woollystar (# of plants observed/# of Grids Where Observed)				
>50 plants	41	60	55	115
25-50 plants	80	100	64	164
1-25 plants	224	249	182	431
Present, # unknown	93	144	220	364
Total (grids)	438	553	521	1074
Estimated Additional Impacts	Low Probability <sup>4</sup>	0	0	0
Spineflower				
Records of occurrence	43	1	46	47
Estimated Additional Impacts	Low Probability <sup>5</sup>	--	--	--

**Notes**

<sup>1</sup> Impact estimates for SBKR and Gnatcatcher were calculated based on the amount of habitat for each species in the Mining Area and Road Impact Area. For SBVWCD's water conservation projects, the impact cap identified in the Wash Plan EIR was used as the estimate (143 acres). For SBCFCD's O&M, 10 acres was used as the estimate.

<sup>2</sup> Acres of habitat per suitability category as modeled for the entire plan area (see Appendix C).

<sup>3</sup> Includes 143 acres for SBVWCD Phase 2 and 3 water conservation projects and 10 acres for SBCFCD O&M.

<sup>4</sup> There is a low probability that SBVWCD's water conservation projects would result in take of Woollystar because of the known location of Woollystar in relation to the overall area where the projects ultimately will occur. Some flood control O&M activities may entail impacts to individual Woollystar adjacent to existing facilities; flood control O&M would not remove a population or cluster of Woollystar.

<sup>5</sup> There is one record of Spineflower occurrence on Other SBVWCD Lands from a 2006 survey of BLM ownership. Most these lands have limited potential for Spineflower occurrence. There is a low-to-no possibility that SBVWCD O&M of or the water conservation projects would result in the loss of Spineflower. There are no records of Spineflower and limited potential for Spineflower occurrence on SBCFCD lands, and no impacts to Spineflower are expected from flood control O&M activities.

## **Amendment Procedures**

During the 50-year permit period, amendment of the ITP would be required for any of the following changes:

- Significant revision of the permit area boundary;
- The federal listing of a species not currently addressed in this HCP that may be taken by covered activities;
- Modification of any important project action or mitigation component under the HCP, including funding, that may significantly affect authorized take levels, effects of the project, or the nature or scope of the mitigation program; or
- Any other modification of the project likely to result in significant new adverse effects to the covered species not addressed in the approved HCP.

## **Institutional Structure**

Implementation of the HCP will proceed under the following institutional and administrative arrangements:

1. The SBVWCD shall be the Program Administrator for HCP implementation and shall administer the Section 10(a) (1) (B) permit and Section 7 incidental take authorization.
2. The SBVWCD shall provide for an HCP Implementation Team to administer the HCP. The HCP Implementation Team shall consist of an Executive Director, Habitat Conservation Program Manager, Biological Consultants, and a Wash Plan Advisory Committee.
  - a. The General Manager for the SBVWCD shall serve as the Executive Director, and will be responsible for overall administration of the HCP program;
  - b. The Habitat Conservation Program Manager shall be responsible for overseeing development and implementation of the management programs for conserved habitat, preparation of annual reports, consultation with the USFWS and CDFG as needed;
  - c. Biological Consultants shall be retained to provide required technical assistance in the development and implementation of the adaptive management and monitoring programs and compliance with habitat management measures, species surveys and other biological oriented activities.
  - d. The Wash Plan Advisory Committee shall include representatives of the covered parties and one at-large member. The USFWS, CDFG, BLM, and a WSPA Management Committee representative will participate as ad hoc members. The Committee will provide advice to the SBVWCD on HCP activities.

## **Funding Requirements, Sources, and Assurances**

### **Implementation Costs**

Estimated start-up and initial administrative costs in the first five years of implementation are estimated at \$1,178,750. Implementation costs in years 6-10 are estimated at \$1,236,250.

It is anticipated that after Year 10, implementation costs will decline relative to the costs of the first 10 years. Data collection and studies required for special Adaptive Management and Monitoring Program measures for SBKR and Spineflower will be completed by Year 10 (or sooner), and effective, cost-efficient programs for ongoing management and monitoring will be in place. For purposes of estimating total implementation costs, it is assumed that 5-year costs in the second decade of implementation would be 30% lower than the Year 6-10 costs or approximately \$865,375 per 5-year period; 5-year costs in the remainder of the permit period would be 50% lower or approximately \$618,215 per 5-year period. Based on these estimates, implementation costs for Years 11-50 would be approximately \$5,439,500 (not adjusted for inflation).

### **Funding Assurances**

As an assurance that adequate funding is available for plan implementation, the covered parties will establish and maintain a fund adequate to cover the first five-years of program implementation. Based on the estimated costs, the initial fund will be approximately \$1.3 million.

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For general background regarding HCPs, staff has attached excerpts from a USFWS publication entitled "What is a Habitat Conservation Plan" that provides some insight into the technical and procedural federal requirements. Furthermore, the draft submittal version of the Federal Fish and Wildlife Permit (ITP) Application Form is included for your information.

Based on the preceding information, staff is recommending that the Board of Directors authorize the General Manager to submit the Wash Plan Draft HCP and an Incidental Take Permit Application to the U.S. Fish and Wildlife Service.

Attachments: 1) Draft HCP, 2) Information Sheet: "What is a Habitat Conservation Plan", 3) ITP Application Form



Department of the Interior  
U.S. Fish and Wildlife Service  
**Federal Fish and Wildlife Permit Application Form**

Expires Nov. 30, 2010  
OMB No. 1018-0094

Return to: U.S. Fish and Wildlife Service (USFWS)

Type of Activity: Native Endangered and Threatened Species –

Incidental Take Permits Associated with a Habitat  
Conservation Plan (HCP)

Complete Sections A or B, and C, D, and E of this application. U.S. address may be required in Section C, see instructions for details.  
See attached instruction pages for information on how to make your application complete and help avoid unnecessary delays.

A. Complete if applying as an individual			
1.a. Last name	1.b. First name	1.c. Middle name or initial	1.d. Suffix
2. Date of birth (mm/dd/yyyy)	3. Social Security No.	4. Occupation	5. Affiliation/ Doing business as (see instructions)
6.a. Telephone number	6.b. Alternate telephone number	6.c. Fax number	6.d. E-mail address

B. Complete if applying on behalf of a business, corporation, public agency or institution			
1.a. Name of business, agency, or institution SB Valley Water Conservation District		1.b. Doing business as (dba)	
2. Tax identification no. 95-3532750		3. Description of business, agency, or institution Local Government Public Agency	
4.a. Principal officer Last name Neufeld	4.b. Principal officer First name Raymond	4.c. Principal officer Middle name/ initial Robert	4.d. Suffix
5. Principal officer title General Manager		6. Primary contact	
7.a. Business telephone number (909) 793-2503	7.b. Alternate telephone number	7.c. Business fax number (909) 793-0188	7.d. Business e-mail address rrneufeld@sbwcd.dst.ca.us

C. All applicants complete address information				
1.a. Physical address (Street address; Apartment #, Suite #, or Room #; no P.O. Boxes) 1630 W. Redlands Blvd., Suite A				
1.b. City Redlands	1.c. State CA	1.d. Zip code/Postal code: 92373	1.e. County/Province San Bernardino	1.f. Country United States
2.a. Mailing Address (include if different than physical address; include name of contact person if applicable)				
2.b. City	2.c. State	2.d. Zip code/Postal code:	2.e. County/Province	2.f. Country

D. All applicants MUST complete	
1.	Attach check or money order payable to the U.S. FISH AND WILDLIFE SERVICE in the amount indicated on page 2. Federal, tribal, State, and local government agencies, and those acting on behalf of such agencies, are exempt from the processing fee – <i>attach documentation of fee exempt status as outlined in instructions.</i> (50 CFR 13.11(d))
2.	Do you currently have or have you ever had any Federal Fish and Wildlife permits? Yes <input type="checkbox"/> If yes, list the number of the most current permit you have held or that you are applying to renew/re-issue: _____ No <input checked="" type="checkbox"/>
3.	Certification: I hereby certify that I have read and am familiar with the regulations contained in <i>Title 50, Part 13 of the Code of Federal Regulations</i> and the other applicable parts in subchapter B of Chapter I of Title 50, and I certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.
Signature (in blue ink) of applicant/person responsible for permit (No photocopied or stamped signatures) _____ Date of signature (mm/dd/yyyy) _____	

Please continue to next page

**\*\* See page 14 for additional instructions on completing the above form. See page 15 for information on the Paperwork Reduction Act, Privacy Act, and Freedom of Information Act aspects of this application form.**

**Section E.** **ALL APPLICANTS COMPLETE SECTION E.** Provide the information outlined in Section E. on the following pages. Be as complete and descriptive as possible. Please do not send pages that are over 8.5"X 11", videotapes, or DVDs.

**INCIDENTAL TAKE PERMITS ASSOCIATED WITH A  
HABITAT CONSERVATION PLAN (HCP)**

**Have you obtained all required State, Federal or foreign government approval to conduct the activity you propose?** Please be aware that there may be other requirements necessary to conduct this activity such as an import permit, collection permit, permission to work on Federal lands, Federal bird banding permit, Corps of Engineers permits, Environmental Protection Agency NPDES permits, State, county or local permits, etc.

- ☐ Yes. Provide a copy of the approval(s). List the State, Federal or foreign countries involved and type of document required. Include a copy of these documents with the application.
- ☐ I have applied. List the State, Federal or foreign countries involved and type of documents required. Provide the reasons why the permits have not been issued \_\_\_\_\_.
- ☐ Not required. The proposed activity is not regulated.

**Application Processing Fees**

The application processing fee for a new Incidental Take permit, or to renew/re-issue an existing valid permit, is \$100. If permit amendment is required at a time other than renewal/re-issuance, the processing fee is \$50.

Check the appropriate box below and enclose check or money order payable to the *U.S. Fish and Wildlife Service* in the amount of

- ☐ \$100 for a **new** permit

OR

- ☐ \$100 to **renew/re-issue** my existing valid permit (with only *minor changes* such as updating my name and address) using my current application package on file.

OR

- ☐ \$50 to make a **substantive amendment** (with *major changes*) to my existing valid permit [50 CFR 13.11(d)(2)].

If the information in your current application package on file has changed in a manner that triggers a major amendment or a change not otherwise specified in the permit, then you must apply for an amendment to your valid permit. For example, such major changes may include changes in location, activity, amount or type of take, or species to be covered by the permit. Please contact our Ecological Services Field Office located closest to your proposed activity for technical assistance in making this determination. The contact information for our Ecological Services Field Offices can be found on the U.S. Fish & Wildlife Service's office directory web page at <http://www.fws.gov/offices/directory/listoficemap.html>

Please check the **type of amendment** you are requesting --

- ☐ add species (specify) \_\_\_\_\_
- ☐ add a geographic area                      ☐ change in personnel
- ☐ other (specify) \_\_\_\_\_

If this application includes **transfer or succession** of a valid Incidental Take permit, please check the box below:

9 Transfer or succession of a valid Incidental Take permit associated with a HCP using the current application package on file. No application fee is required.

## Application Processing Time

**To expedite a final decision on your application, you are urged to coordinate with us as soon as possible for guidance in assembling a complete application package. If you are renewing or amending a valid permit, your complete application package must be received at least 30 days prior to the expiration of the valid permit. This time period begins when we receive a complete permit application package and does not include any time required for requesting clarification or additional information about your application.**

The time required to process an application for an Incidental Take permit will vary depending on the size, complexity, and impacts of the HCP involved. Procedurally, the most variable factor in application processing is the level of analysis required for the proposed HCP under the National Environmental Policy Act (e.g., whether an application requires preparation of an Environmental Impact Statement, Environmental Assessment, or whether a categorical exclusion applies), although other factors such as public controversy can also affect application processing times. The target processing timeline from when we receive a complete application package to our final decision on a permit application is: up to 3 months for low-effect HCPs, 4 to 6 months for HCPs with an Environmental Assessment, and up to 12 months for HCPs with a 90-day comment period and/or an Environmental Impact Statement. Although not mandated by law or regulation, these targets are adopted as U.S. Fish & Wildlife Service and National Marine Fisheries Service (NMFS/NOAA Fisheries) policy and all offices are expected to streamline their Incidental Take permit programs, and to meet these targets to the maximum extent practicable.

The information provided in your permit application will be used to evaluate your application for compliance with the Endangered Species Act, its implementing regulations (which may require a 30 day public comment period), and with U.S. Fish and Wildlife Service policy. Receipt and possession of a permit under the Endangered Species Act should be regarded as a privilege, as we must balance permit issuance with our duties to protect and recover listed species.

Up-to-date annual reports and any other required reports under your valid permit(s) must be on file before a permit will be considered for renewal, re-issuance or amendment.

If your activities may affect species under the authority of the National Marine Fisheries Service (NMFS/NOAA Fisheries), then you may need to obtain a separate permit from that agency. In addition we share jurisdiction with NMFS/NOAA Fisheries for sea turtles (e.g., we evaluate applications for permits to conduct activities impacting sea turtles on land, and NMFS/NOAA Fisheries evaluates applications for permits to conduct activities impacting sea turtles in the marine environment). To apply for a permit to conduct activities with sea turtles in the marine environment or other species under NMFS/NOAA Fisheries jurisdiction, please contact them via their permit web page at <http://www.nmfs.noaa.gov/pr/permits/>

We cannot issue an Incidental Take permit under Section 10(a)(2)(A)(i) of the Endangered Species Act unless you submit a conservation plan that specifies the impacts that are likely to result from the incidental take associated with your activity.

Our general permit regulations at 50 CFR 13.12(a)(9) allow us to collect such other information as we determine that is relevant to the processing of a permit application. Before you submit an application for an Incidental Take permit, we may require that you conduct biological surveys to determine which species and/or habitat would be impacted by the activities sought to be covered under the permit. Biological surveys provide information necessary to develop an adequate HCP, and to assess the biological impacts of the proposed activities. In addition, the information provided in a biological survey can reduce the applicant's risk of take under Section 9 of the Endangered Species Act by ensuring that affected species and/or habitat are identified and appropriately covered under the permit.

You are required to obtain a Scientific Purposes, Enhancement of Propagation or Survival permit (commonly called a Recovery permit) from us before engaging in any biological survey activities that would take listed species. Contact our Ecological Services Field Office closest to the location of your activity to obtain technical assistance in determining the need for both a biological survey and a Recovery permit for your survey activity. The contact information for our Ecological Services Field Offices can be found on the U.S. Fish & Wildlife Service's office directory web page at <http://www.fws.gov/offices/directory/listofficemap.html>

If a biological survey is required, you will need to send us your complete Recovery permit application package at least 3 months prior to commencement of survey activities to facilitate processing of your Recovery permit application. The Recovery permit application is designated as U.S. Fish & Wildlife Service form # 3-200-55 and can be found on our Endangered Species permit web page at <http://www.fws.gov/forms/3-200-55.pdf>.

We maintain a list of Recovery permittees (such as biological consultants) who have authorized the release of their contact information to third parties for conducting biological surveys on a contract basis. This list is provided to the public at the discretion of each U.S.



Fish and Wildlife Service Regional Office as time and workload allow. Please be aware that this list does not represent an endorsement by us of any particular permittee.

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If you are not applying as an individual but as a business, corporation, institution, or non-Federal public agency (block B. on page 1 of the application), the person to whom the permit will be issued (e.g., the landowner, president, director, executive director, or executive officer) is legally responsible for implementing the permit. Although other people under the direct control of the permittee (e.g., employees, contractors, consultants) receive third party take authorization in their capacity as designees of the permittee, the individual named as the permittee ultimately is legally responsible for the permit and any activities carried out under the permit except as otherwise limited in the case of permits issued to State or local government entities under 50 CFR 13.25(e).

\*\*\*\*\*

If you wish to coordinate the processing of this permit application through an **authorized agent**, and to have that agent represent you as the primary contact with us, check the box below. Sign (in blue ink) and date the authorization statement, and provide contact information for your authorized agent.

G I hereby authorize the following person to act as an authorized agent on my behalf in the processing of this permit application and to furnish, upon request, supplemental information in support of this permit application.

\_\_\_\_\_  
signature (in blue ink)

\_\_\_\_\_  
date

\_\_\_\_\_  
please print name legibly

Your Authorized Agent's Contact Information (please print legibly)

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

## INCIDENTAL TAKE PERMIT APPLICATION INSTRUCTIONS

**You have 4 options for providing the required information for an Incidental Take permit application. Choose only one option.**

**Incidental Take Permit Application: Option I. Renewal of a Valid Incidental Take Permit.**

Up-to-date annual reports and any other required reports under your valid permit(s) must be on file before a permit will be considered for renewal.

Sign the following statement if you are applying to renew an existing valid Incidental Take permit. If you are proposing major changes to your Incidental Take permit, you must use Option II.

The individual signing box D. on page 1 of the application must also sign (in blue ink) the following statement. This certification language is required under 50 CFR 13.22(a).

I certify that the statements and information submitted in support of my original application for a U.S. Fish and Wildlife Service Incidental Take permit # \_\_\_\_\_ are still current and correct and hereby request renewal of that permit.

\_\_\_\_\_  
signature (in blue ink)

\_\_\_\_\_  
date

\_\_\_\_\_  
please print name legibly

\* Please note: If you have signed the above statement, then your renewal request is complete. Please submit completed pages 1 through 5 of this application to our Regional Office (see attached list) covering the location of your proposed activity.

Requests for renewals must be received no later than 30 days prior to permit expiration to ensure that your current permit remains in effect while we process your renewal request.

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**Incidental Take Permit Application: Option II. Amended Incidental Take Permit (with *major changes*)**

Up-to-date annual reports and any other required reports under your valid permit(s) must be on file before a permit will be considered for amendment.

Sign the following statement if you are proposing to amend a valid Incidental Take permit by making major changes. Such major changes may include changes in location, activity, amount or type of take, or species to be covered by the permit.

The individual signing box D. on page 1 of the application must also sign (in blue ink) the following statement. This certification language is required under 50 CFR 13.22(a).

I certify that the statements and information submitted in support of my original application for a U.S. Fish and Wildlife Service Incidental Take permit # \_\_\_\_\_ are still current and correct, except for the changes listed below, and hereby request amendment of that permit.

\_\_\_\_\_  
signature (in blue ink)

\_\_\_\_\_  
date

\_\_\_\_\_  
please print name legibly

Provide a brief description of the changes to your valid permit (answer the appropriate questions for these changes under Incidental Take Permit Application Option III. below). Please submit completed pages 1 through 6 of this application form (along with the changed information relative to Option III. below) to our Regional Office (see attached list) covering the location of your proposed activity.

---

**Incidental Take Permit Application: Option III. New Incidental Take Permit & Supplementary Information for Amendment of a Valid Permit (with major changes).**

General permit regulations for the U.S. Fish & Wildlife Service can be found at 50 CFR 13. Regulations for an Incidental Take permit under the Endangered Species Act can be found at 50 CFR 17.22(b)(1) for endangered wildlife species and 50 CFR 17.32(b)(1) for threatened wildlife species.

Each landowner who wishes to be covered under a new or amended Incidental Take permit associated with an HCP must sign (in blue ink) and date the Incidental Take Permit Application Certification Notice at the end of this application, unless the landowner will be covered under this U.S. Fish & Wildlife Service Incidental Take permit via another vehicle, such as a certificate of inclusion (50 CFR 13.25(d)). Any change in the language of the Certification Notice must be reviewed by the Department of Interior, Office of the Solicitor and approved by the U.S. Fish & Wildlife Service. The same person who signs in box D. on page 1 of the application should sign the certification.

If the information in items A. - D. below is already provided in your final HCP (or Implementing Agreement, if applicable), then you do not have to provide it here. Instead, check the box below and use the spaces provided in items A. - D. to indicate the page numbers in your HCP or Implementing Agreement that provide the requested information.

- 9 I am not providing the following information for items A. - D. as part of my Incidental Take permit application, because it is already provided in my final HCP or Implementing Agreement (copy attached or already submitted).

If the requested information in items A. - D. is not provided in your final HCP or final Implementing Agreement, or you are using Option II. to amend your existing valid Incidental Take permit, then attach separate pages for the missing information. In order to assist us in processing your request, please provide the item number (A. 1.a., etc.) of the required information before each of your responses. Thank you.

Please ensure that your final HCP and Implementing Agreement (if applicable) are attached if it has not been previously submitted.

If you have previously submitted a final draft HCP or Implementing Agreement, please indicate the document's date.

Date of final draft HCP \_\_\_\_\_

Date of final draft Implementing Agreement \_\_\_\_\_

Applications for an Incidental Take permit associated with an HCP must provide the following specific information (relevant to the activity) under items A.- D. below in addition to the general information on page 1 of this application.

**A. Identify species and activity:**

1. For a new Incidental Take permit:
  - a. Provide the common and scientific names of the species being requested for coverage in the permit and their status (endangered (E), threatened (T), proposed endangered (PE), proposed threatened (PT), candidate for listing (C), or species likely to become a candidate (LC)).
  - b. Provide the number, age, and sex of such species to the extent known
  - c. Quantify the anticipated effects to their habitat.
  - d. Describe the land use or water management activity sought to be authorized for each species.
2. For an amended Incidental Take permit:
  - a. Identify the species to be added to your valid permit (provide both the scientific, to the most specific taxonomic level, and common names), as well as the species status (see 1.a.. above).
  - b. Provide the number, age and sex of such species to the extent known.
  - c. If any activities requested in this application differ from those authorized in your valid permit, then for each

species state the currently authorized activity, the requested new activity, and how the new activity will impact each species.

- d. Identify each activity associated with your project that would result in the incidental take of each species.
- e. Quantify any anticipated effects to the habitat of each added species.
- f. Identify species to be deleted from your valid permit and the reason(s) for the deletion.

Page(s) & source document : \_\_\_\_\_

**B. Identify location of the proposed activity:**

1. Provide the name of the State, county, and specific location of the proposed activity site(s). Include a formal legal description, section/township/range information, county tax parcel number, local address, or any other identifying property designation that will precisely place the location of the proposed activity site(s). Attach a location map and plat of the project site clearly depicting the project boundaries and the footprint and location of all portions of the property that would be affected by your proposed activities.
2. Provide the total number of acres covered by the HCP \_\_\_\_\_  
Is this the total acreage of the parcel? (circle one)    yes    no
3. Provide the approximate number of acres to be impacted \_\_\_\_\_
4. Provide the approximate number of acres to be protected \_\_\_\_\_
5. Provide a complete description, including timeframes, for implementation of proposed voluntary management activities to enhance, restore, or maintain habitat benefiting federally listed, proposed or candidate species, or other species likely to become candidates. Include schedules for implementing these activities.

Page(s) & source document: \_\_\_\_\_

**C. Describe the proposed activities in the conservation plan:**

You must submit a Habitat Conservation Plan. We strongly encourage you to ensure that your HCP is consistent with the Habitat Conservation Planning Handbook, subsequent Handbook addendums, and current policies to minimize delays in evaluating your application. The Handbook and other HCP information is available on the U.S. Fish & Wildlife Service's Endangered Species web page at <http://www.fws.gov/endangered/hcp/index.html>

Provide a complete description of activity(ies) to be authorized or reference the applicable HCP or Implementing Agreement page numbers identifying the subject information.

The HCP must specify:

1. The impact that will likely result from the incidental taking. A discussion of the impact that will likely result from the incidental take should include quantification of any anticipated effects to the habitat of the species sought to be covered by the permit.
2. The steps that will be taken to minimize and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to deal with unforeseen circumstances.
3. The steps that will be taken to monitor and report on such impacts, including a copy of the monitoring plan. We are authorized to require reports of activities conducted under a permit per the U.S. Fish & Wildlife Service's general permit regulations at 50 CFR 13.45.
4. Alternative actions to such incidental taking that have been considered and the reasons why these alternatives are not proposed for use.

5. The biological goals(s) and objectives for the HCP.

6. The duration requested for the proposed permit.

Page(s) & source document : \_\_\_\_\_

**D. Implementing Agreement**

An Implementing Agreement

*is*                      *is not*                      (FWS *Regional Office* to circle one)

required as part of the permit application for a Habitat Conservation Plan.

This Implementing Agreement must be signed at finalization of the HCP. Are you willing to commit to an Implementing Agreement at finalization of the HCP?

9 Yes, I am willing to commit to an Implementing Agreement. Please submit any unsigned, draft Implementing Agreement that you have prepared with our Field Office.

9 No, I am not willing to commit to an Implementing Agreement.

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**Incidental Take Permit Application: Option IV. Permit Transfer or Succession of a Permit**

Complete the following if you are applying for transfer of a valid Incidental Take permit to you or obtaining rights of succession of a valid Incidental Take permit. In addition, you and the current permit holder may also need to sign an Assumption Agreement. Please contact our Ecological Services Field Office nearest your activity to determine whether you and the current permit holder need to execute an Assumption Agreement. The contact information for our Ecological Services Field Offices can be found on the U.S. Fish & Wildlife Service's office directory web page at <http://www.fws.gov/offices/directory/listofficemap.html>

Please indicate the name of the HCP to be transferred or succeeded and indicate the document's date.

Name of HCP \_\_\_\_\_

Date of HCP \_\_\_\_\_

An Assumption Agreement

*is*                      *is not*                      (FWS Ecological Services *Field Office* to circle one)

required as part of the transfer or succession permit application for the HCP.

## Incidental Take Permit Application

### Certification Notice

The same person who signs in box D. on page 1 of the application should sign (in blue ink) the following certification.

By submitting this application and receiving an Incidental Take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act, I

\_\_\_\_\_ (print name(s)) attest that I/we own the lands indicated in this application, or have sufficient authority or rights over these lands to implement the measures of the Habitat Conservation Plan (and Implementing Agreement if applicable) covered by the Incidental Take permit. Further, upon receipt of the Incidental Take permit, I/we agree to conduct the activities as specified in the Habitat Conservation Plan (and Implementing Agreement if applicable) according to the terms and conditions of the Incidental Take permit and its supporting documents.

\_\_\_\_\_  
signature (in blue ink)

\_\_\_\_\_  
date

\_\_\_\_\_  
please print name legibly

\_\_\_\_\_  
signature (in blue ink)

\_\_\_\_\_  
date

\_\_\_\_\_  
please print name legibly

\*\*\*\*\*  
The public reporting burden for completing this application for an Incidental Take permit is estimated to be 3 hours, including time for reviewing instructions, gathering and maintaining application data, and completing and reviewing the forms. Comments regarding the burden estimate or any other aspect of the reporting requirement(s) should be directed to the U.S. Fish & Wildlife Service Information Collection Clearance Officer, MS 222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240.

An agency may not conduct and a person is not required to respond to a collection of information unless a currently valid OMB control number is displayed.

\*\*\*\*\*



**USFWS Regional Contacts for Native Endangered & Threatened Species Permits**

**Pacific Region (Region 1): HI, ID, OR, WA, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Trust Territories**

U.S. Fish and Wildlife Service  
Endangered Species Permit Office  
911 NE 11th Avenue  
Portland, Oregon 97232-4181

Web: <http://www.fws.gov/pacific/ecoservices/endangered/index.html>  
Phone: (503) 231-2071  
email: [permitsR1ES@fws.gov](mailto:permitsR1ES@fws.gov)  
Fax: (503) 231-6243

**California & Nevada Operations Office (CNO): CA and NV**

U.S. Fish and Wildlife Service  
Endangered Species Permit Office  
2800 Cottage Way, Suite W-2606  
Sacramento, California 95825

Web: <http://www.fws.gov/cno/es/recovery.html>  
Phone: (916) 414-6464  
email: [permitsCNES@fws.gov](mailto:permitsCNES@fws.gov)  
Fax: (916) 414-6486

**Southwest Region (Region 2): AZ, NM, OK, and TX**

U.S. Fish and Wildlife Service  
Endangered Species Permit Office  
500 Gold Avenue S.W. (street address)  
P.O. Box 1306 (mailing address)  
Albuquerque, New Mexico 87103-1306

Web: <http://www.fws.gov/southwest/es/EndangeredSpecies/>  
Phone: (505) 248-6649  
email: [permitsR2ES@fws.gov](mailto:permitsR2ES@fws.gov)  
Fax: (505) 248-6788

**Midwest Region (Region 3): IA, IL, IN, MI, MN, MO, OH, and WI**

U.S. Fish and Wildlife Service  
Endangered Species Permit Office  
B.H. Whipple Federal Building  
One Federal Drive  
Fort Snelling, Minnesota 55111-4056

Web: <http://www.fws.gov/southwest/es/EndangeredSpecies/>  
Phone: (612) 713-5343  
email: [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov)  
Fax: (612) 713-5292

**Southeast Region (Region 4): AL, AR, FL, GA, KY, LA, MS, NC, PR, SC, TN, and U.S. Virgin Islands**

U.S. Fish and Wildlife Service  
Endangered Species Permit Office  
1875 Century Blvd., Suite 200  
Atlanta, Georgia 30345

Web: <http://www.fws.gov/southeast/es/#>  
Phone: (404) 679-4176  
email: [permitsR4ES@fws.gov](mailto:permitsR4ES@fws.gov)  
Fax: (404) 679-7081

**Northeast Region (Region 5): CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, and WV**

U.S. Fish and Wildlife Service  
Endangered Species Permit Office  
300 Westgate Center Drive  
Hadley, MA 01035-9589

Web: <http://www.fws.gov/northeast/endangered/>  
Phone: (413) 253-8628  
email: [permitsR5ES@fws.gov](mailto:permitsR5ES@fws.gov)  
Fax: (413) 253-8482

**Mountain-Prairie Region (Region 6): CO, KS, MT, NE, ND, SD, UT, and WY**

U.S. Fish and Wildlife Service  
Endangered Species Permit Office  
Denver Federal Center  
P.O. Box 25486  
Denver, Colorado 80225-0489

Web: <http://www.fws.gov/mountain%2Dprairie/endspp/>  
Phone: (303) 236-7400  
email: [permitsR6ES@fws.gov](mailto:permitsR6ES@fws.gov)  
Fax: (303) 236-0027

**Alaska Region (Region 7): AK**

U.S. Fish and Wildlife Service  
Endangered Species Permit Office  
1011 E. Tudor Road  
Anchorage, Alaska 99503-6199

Web: <http://alaska.fws.gov/fisheries/endangered/index.htm>  
Phone: (907) 786-3323  
email: [permitsR7ES@fws.gov](mailto:permitsR7ES@fws.gov)  
Fax: (907) 786-3350

## PERMIT APPLICATION FORM INSTRUCTIONS

The following instructions pertain to the standard permit form 3-200 that must be completed as an application for a U.S. Fish and Wildlife Service or CITES permit. The General Permit Procedures in 50 CFR 13 address the permitting process. For simplicity, all licenses, permits, registrations, and certificates will be referred to as a permit.

### GENERAL INSTRUCTIONS:

- Complete all blocks/lines/questions in Sections A or B, and C and D. Complete all of Section E.
- **An incomplete application may cause delays in processing or may be returned to the applicant. Be sure you are filling in the appropriate application form for the proposed activity.**
- Print clearly or type in the information. Illegible applications may cause delays.
- Sign the application in blue ink. Faxes or copies of the original signature will not be accepted.
- Mail the original application to the address at the top of page one of the application or if applicable on the attached address list.
- **Keep a copy of your completed application.**
- **Please plan ahead. Allow at least 60 days for your application to be processed. Some applications may take longer than 90 days to process. (50 CFR 13.11)**
- Applications are processed in the order they are received.
- Additional forms and instructions are available from <http://permits.fws.gov/>.

### COMPLETE EITHER SECTION A OR SECTION B:

#### Section A. Complete if applying as an individual:

- Enter the complete name of the responsible individual who will be the permittee if a permit is issued. Enter personal information that identifies the applicant. *Fax and e-mail are not required if not available.*
- If you are applying on behalf of a client, the personal information must pertain to the client, and a document evidencing power of attorney must be included with the application.
- **Affiliation/ Doing business as (dba):** business, agency, organizational, or institutional affiliation *directly* related to the activity requested in the application (e.g., a taxidermist is an individual whose business can *directly* relate to the requested activity). The Division of Management Authority (DMA) will **not** accept *doing business as* affiliations for individuals.

#### Section B. Complete if applying as a business, corporation, public agency, or institution:

- Enter the complete name of the business, agency or institution that will be the permittee if a permit is issued. Give a brief description of the type of business the applicant is engaged in. Provide contact phone number(s) of the business.
- **Principal Officer** is the person in charge of the listed business, corporation, public agency, or institution. The principal officer is the person responsible for the application and any permitted activities. Often the principal officer is a Director or President. **Primary Contact** is the person at the business, corporation, public agency, or institution who will be available to answer questions about the application or permitted activities. Often this is the preparer of the application.

### ALL APPLICANTS COMPLETE SECTION C:

- For all applications submitted to the Division of Management Authority (DMA) a physical U.S. address is **required**. Province and Country blocks are provided for those USFWS programs which use foreign addresses and are not required by DMA..
- **Mailing address** is address where communications from USFWS should be mailed if different than applicant's physical address.

### ALL APPLICANTS COMPLETE SECTION D:

#### Section D.1 Application processing fee:

- An application processing fee is required at the time of application; unless exempted under 50 CFR 13.11(d)(3). The application processing fee is assessed to partially cover the cost of processing a request. **The fee does not guarantee the issuance of a permit. Fees will not be refunded for applications that are approved, abandoned, or denied.** We may return fees for withdrawn applications prior to any significant processing occurring.
- **Documentation of fee exempt status is not required for Federal, tribal, State, or local government agencies; but must be supplied by those applicants acting on behalf of such agencies.** Those applicants acting on behalf of such agencies must submit a letter on agency letterhead and signed by the head of the unit of government for which the applicant is acting on behalf, confirming that the applicant will be carrying out the permitted activity for the agency.

#### Section D.2 Federal Fish and Wildlife permits:

- List the number(s) of your most current FWS or CITES permit or the number of the most recent permit if none are currently valid. If applying for re-issuance of a CITES permit, the original permit must be returned with this application.

#### Section D.3 CERTIFICATION:

- **The individual identified in Section A, the principal officer named in Section B, or person with a valid power of attorney (documentation must be included in the application) must sign and date the application in blue ink.** This signature binds the applicant to the statement of certification. This means that you certify that you have read and understand the regulations that apply to the permit. You also certify that everything included in the application is true to the best of your knowledge. Be sure to read the statement and re-read the application and your answers before signing.

**Please continue to next page**

**APPLICATION FOR A FEDERAL FISH AND WILDLIFE PERMIT**  
**Paperwork Reduction Act, Privacy Act, and Freedom of Information Act – Notices**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised:

1. The gathering of information on fish and wildlife is authorized by:  
(Authorizing statutes can be found at: <http://www.epoaccess.gov/cfr/index.html> and <http://www.fws.gov/permits/ltr/ltr.shtml>.)
  - a. Bald and Golden Eagle Protection Act (16 U.S.C. 668), 50 CFR 22;
  - b. Endangered Species Act of 1973 (16 U.S.C. 1531-1544), 50CFR 17;
  - c. Migratory Bird Treaty Act (16 U.S.C. 703-712), 50 CFR 21;
  - d. Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, *et seq.*), 50 CFR 18;
  - e. Wild Bird Conservation Act (16 U.S.C. 4901-4916), 50 CFR 15;
  - f. Lacey Act: Injurious Wildlife (18 U.S.C. 42), 50 CFR 16;
  - g. Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249), <http://www.cites.org/>, 50 CFR 23;
  - h. General Provisions, 50 CFR 10;
  - i. General Permit Procedures, 50 CFR 13; and
  - j. Wildlife Provisions (Import/export/transport), 50 CFR 14.
2. Information requested in this form is purely voluntary. However, submission of requested information is required in order to process applications for permits authorized under the above laws. Failure to provide all requested information may be sufficient cause for the U.S. Fish and Wildlife Service to deny the request. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed on form.
3. Certain applications for permits authorized under the Endangered Species Act of 1973 (16 U.S.C. 1539) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374) will be published in the **Federal Register** as required by the two laws.
4. Disclosures outside the Department of the Interior may be made without the consent of an individual under the routine uses listed below, if the disclosure is compatible with the purposes for which the record was collected. (Ref. 68 FR 52611, September 4, 2003)
  - a. Routine disclosure to subject matter experts, and Federal, tribal, State, local, and foreign agencies, for the purpose of obtaining advice relevant to making a decision on an application for a permit or when necessary to accomplish a FWS function related to this system of records.
  - b. Routine disclosure to the public as a result of publishing **Federal Register** notices announcing the receipt of permit applications for public comment or notice of the decision on a permit application.
  - c. Routine disclosure to Federal, tribal, State, local, or foreign wildlife and plant agencies for the exchange of information on permits granted or denied to assure compliance with all applicable permitting requirements.
  - d. Routine disclosure to Captive-bred Wildlife registrants under the Endangered Species Act for the exchange of authorized species, and to share information on the captive breeding of these species.
  - e. Routine disclosure to Federal, tribal, State, and local authorities who need to know who is permitted to receive and rehabilitate sick, orphaned, and injured birds under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act; federally permitted rehabilitators; individuals seeking a permitted rehabilitator with whom to place a bird in need of care; and licensed veterinarians who receive, treat, or diagnose sick, orphaned, and injured birds.
  - f. Routine disclosure to the Department of Justice, or a court, adjudicative, or other administrative body or to a party in litigation before a court or adjudicative or administrative body, under certain circumstances.
  - g. Routine disclosure to the appropriate Federal, tribal, State, local, or foreign governmental agency responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, or licenses, when we become aware of a violation or potential violation of such statutes, rules, or licenses, or when we need to monitor activities associated with a permit or regulated use.
  - h. Routine disclosure to a congressional office in response to an inquiry to the office by the individual to whom the record pertains.
  - i. Routine disclosure to the General Accounting Office or Congress when the information is required for the evaluation of the permit programs.
  - j. Routine disclosure to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor or to consumer reporting agencies to prepare a commercial credit report for use by the FWS.
5. For individuals, personal information such as home address and telephone number, financial data, and personal identifiers (social security number, birth date, etc.) will be removed prior to any release of the application.
6. The public reporting burden on the applicant for information collection varies depending on the activity for which a permit is requested. The relevant burden for an **Incidental Take** permit application is **3 hours**. This burden estimate includes time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. You may direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street, NW, Washington D.C. 20240.

**Freedom of Information Act – Notice**

For organizations, businesses, or individuals operating as a business (i.e., permittees not covered by the Privacy Act), we request that you identify any information that should be considered privileged and confidential business information to allow the Service to meet its responsibilities under FOIA. Confidential business information must be clearly marked "Business Confidential" at the top of the letter or page and each succeeding page and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary and remaining documents may be made available to the public under FOIA [43 CFR 2.13(c)(4), 43 CFR 2.15(d)(1)(i)].

***WHAT IS A HABITAT CONSERVATION PLAN?***  
***Information excerpted from a U.S. Fish & Wildlife Service publication***

What is a Habitat Conservation Plan (HCP) and when is one needed? Section 10(a)(2)(A) of the Endangered Species Act (ESA) provides for the “incidental take” of species that are federally listed as threatened or endangered. “Incidental take” means the take (harm, injury, or death) of individuals of a listed species that would occur as the result of an otherwise lawful activity (taking a species is not the primary purpose of the activity; rather it is incidental to that activity). Incidental take is authorized via an Incidental Take Permit as established under the above-mentioned legislation. An HCP is the conservation plan that a permit applicant will undertake to both minimize and mitigate for impacts to the listed species. If the HCP contains the mandatory elements of an HCP and meets issuance criteria, an Incidental Take Permit may be issued. The HCP process is available for actions of private landowners or actions on private lands. There is another process under the ESA for providing for incidental take for Federal agencies or for private parties seeking take for a project funded or permitted by a Federal agency (i.e., Section 7 Inter-Agency Consultation; consultation for short). As part of the HCP process, we (sic. USFWS) ‘consult’ with ourselves and write a biological opinion from our office to our Regional Office regarding the biological impacts of permit issuance (the RO issues the permit). We will also write a biological opinion on the BLM’s land exchange and revisions to their South Coast Resource Management Plan that created the ACEC areas in the wash.

Mandatory Elements of an HCP:

1. Description of impacts to listed species likely to result from the proposed taking for which a permit is requested;
2. Measures to monitor, minimize and mitigate these impacts with assurances that funding will be made available to implement the HCP as written and deal with unforeseen circumstances;
3. Alternatives to the project that the permit applicant considered, but rejected, and the reasons for so doing (i.e., the Alternatives Analysis). An alternatives analysis also appears in CEQA and NEPA documents;
4. Any additional measures that the FWS may require as necessary or appropriate for the purposes of the HCP.

Issuance Criteria:

1. The taking will be incidental;

***WHAT IS A HABITAT CONSERVATION PLAN?***  
***Information excerpted from a U.S. Fish & Wildlife Service publication***

2. The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of the taking;
3. The applicant will ensure that adequate funding for the HCP will be provided (these assurances will be spelled out in an Implementing Agreement);
4. The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild; and
5. If required, any additional measures will be met (see #4 above).

Minimization of Impacts:

This is just what it says; actions to reduce the project's impacts to Covered Species. Mining is doing this by keeping a border of habitat adjacent to haul roads by Orange St so that SBKR can still move along the roads between occupied habitat areas without being run over. The cities are doing this by using existing surfaces for their trails across the wash. The WCD is doing this by limiting the distribution of any new basins to unoccupied, less-suitable habitat for Covered Species.

Mitigation for Impacts:

The set-aside of the conservation lands and proposed management is the mitigation for permanent project impacts.

Permit Applicant's Responsibilities:

1. Preparation of an HCP;
2. Requesting technical assistance from the FWS and other interests (i.e., CDFG) during HCP preparation;
3. Developing a *draft* NEPA document (i.e., EIS or EA);
4. Submitting a permit application form with \$100 check (I think the WCD, as a public agency, may be exempt from the fee);
5. Implementing the HCP as it is written and complying with all permit terms and conditions over the life of the permit.

***WHAT IS A HABITAT CONSERVATION PLAN?***  
***Information excerpted from a U.S. Fish & Wildlife Service publication***

FWS Responsibilities:

1. Advising you about species within the Plan Area and helping to identify the scope of the project and its probable impacts in order to begin the HCP;
2. Adviseing you regarding the application of State endangered species law (CESA) and other Federal Laws (not applicable here), design of mitigation, habitat enhancement and management programs, methods for monitoring HCP progress and success in minimizing or mitigation impacts and on procedural aspects of the HCP process;
3. Preparation of all internal documents (i.e., an inter-agency Section 7 Consultation on permit issuance); and
4. Finalizing the NEPA documents (EIS or EA, Findings, FONSI or ROD).

## **SUBMITTAL DRAFT**

# **HABITAT CONSERVATION PLAN**

**FOR THE SAN BERNARDINO KANAGAROO RAT, CALIFORNIA  
GNATCATCHER, SANTA ANA RIVER WOOLLYSTAR, AND  
SLENDER-HORNED SPINEFLOWER WITHIN THE AREA COVERED  
BY THE UPPER SANTA ANA RIVER WASH PLAN**

### **PREPARED FOR:**

San Bernardino Valley Water Conservation District  
P O Box 1839  
Redlands, CA 92373-0581  
Contact: Randy Scott, Wash Plan Project Manager  
909-793-2503

### **PREPARED BY:**

ICF Jones & Stokes  
1 Ada, Suite 100  
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949-333-6600

January 12, 2010







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## Acronyms and Abbreviations

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AMMP	Adaptive Management and Monitoring Plan
BLM	Bureau of Land Management
BMP	Best Management Practice
BO	Biological Opinion
CalIPC	California Invasive Plant Council
CDFG	California Department of Fish and Game
CE	California Endangered [species]
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CFGF	California Fish and Game Code
CFP	California Fully Protected [species]
CFWO	Carlsbad Fish and Wildlife Office
CNPS	California Native Plant Society
CNDDB	California Natural Diversity Database
CR	California Rare [species]
CSC	California Species of Special Concern
CSP	California Specially Protected [species]
CT	California Threatened [species]
CWA	Clean Water Act
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EVWD	East Valley Water District
FE	Federal Endangered [species]
FESA	Federal Endangered Species Act
FT	Federal Threatened [species]
HCP	Habitat Conservation Plan

IA	Implementation [or Implementing] Agreement
ITP	Incidental Take Permit
MBTA	Migratory Bird Treaty Act
MMRP	Mitigation Monitoring and Reporting Plan
NCCP	Natural Community Conservation Plan
NCCPA	Natural Community Conservation Planning Act
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOI	Notice of Intent
NOP	Notice of Preparation
ROW	Right-of-Way
RMUD	Redlands Municipal Utilities Department
SBCFCD	San Bernardino County Flood Control District
SBKR	San Bernardino kangaroo rat
SBVWCD	San Bernardino Valley Water Conservation District
SMARA	Surface Mining and Reclamation Act
SMGB	State Mining and Geology Board
Spineflower	Slender-horned spineflower
UCR	University of California, Riverside
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
Woollystar	Santa Ana River Woollystar
WSPA	[Santa Ana River] Woollystar Preserve Area

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## Purpose, Scope, and Context

This Habitat Conservation Plan (HCP) is part of the permit application submitted by the San Bernardino Valley Water Conservation District (SBVWCD) to the U.S. Fish and Wildlife Service (USFWS) on behalf of the parties implementing the Upper Santa River Wash Land Management Plan (Wash Plan). USFWS is being asked to authorize incidental take of four federally listed species:

- San Bernardino kangaroo rat (*Dipodomys merriami parvus*, SBKR),
- California gnatcatcher (*Polioptila californica californica*, Gnatcatcher),
- Santa Ana River woollystar (*Eriastrum densifolium* ssp. *sanctorum*, Woollystar), and
- Slender-horned spineflower (*Dodecahema leptoceras*, Spineflower).

Woollystar and Spineflower are State as well as federally listed species, and the SBVWCD also is seeking State authorization for take of those species from the California Department of Fish and Game (CDFG).

The primary purpose of the HCP (also cited as the “Wash Plan HCP”) is to:

1. Provide for the conservation of populations of the four species and their habitat within the Wash Plan area as mitigation for the effects of incidental take;
2. Fulfill the requirements for an incidental take permit (ITP) as specified in section 10(a)(1)(B) of the federal Endangered Species Act (FESA), FESA implementing regulations (50 CFR 17.22[b][2][i]), the 1996 Habitat Conservation Planning Handbook (HCP Handbook), and the 2000 Addendum to the HCP Handbook; and
3. Support the SBVWCD’s request to CDFG for a “consistency determination” pursuant to section 2080.1 of the California Endangered Species Act (CESA).

In addition, the HCP will be used to:

- Support a FESA section 7 consultation between USFWS and U.S. Bureau of Land Management (BLM) regarding incidental take on federal lands in connection with activities covered by the Wash Plan HCP; and
- Fulfill the requirements specified in the Wash Plan and its certified Environmental Impact Report (EIR) regarding compliance with FESA and CESA and the identification of measures to avoid, minimize, mitigate, and monitor effects on these four species.

## Covered Parties

The parties that will be covered by the authorizations for incidental take are: SBVWCD, City of Redlands (including the Redlands Municipal Utility District), City of Highland, San Bernardino County Flood Control District (SBCFCD), Cemex Inc. (Cemex), and Robertson’s Ready-mix (Robertson’s).

## Plan Area

The area covered by the HCP (plan area) is located in southwestern San Bernardino County, California, approximately one mile downstream of the Seven Oaks Dam. The plan area encompasses approximately 4,467 acres, extending approximately six miles westward from Greenspot Road in the City of Highland to Alabama Street in the City of Redlands. The HCP and the Wash Plan cover the same area.

For planning and implementation purposes, the plan area is divided into eight subcomponents (Figure S-1):

- Santa Ana River Woollystar Preserve Area (WSPA) – an existing preserve established as mitigation for the effects of the Seven Oaks Dam on Woollystar.
- Newly Conserved Lands – lands that will be permanently conserved for the four species under the HCP.
- Additionally Managed Lands – lands for which the HCP will provide additional management and monitoring for the benefit of the four species.
- Mining Impact Area – the area in which mining operations by Robertson’s and Cemex will continue and expand.
- Road Impact Area – the area affected by proposed improvements to Alabama Street, Orange Street/Boulder Avenue, and Greenspot Road.
- Other SBVWCD Lands – other SBVWCD-owned lands in the plan area where SBVWCD conducts operation and maintenance (O&M) activities and will establish new water conservation facilities. (SBVWCD also will establish new water conservation facilities on Additionally Managed Lands in a designated area.)
- Other Flood Control Lands – other SBCFCD-lands in the plan area where SBCFCD conducts O&M activities.
- Other Lands – lands within the Caltrans right-of-way along State Route 30 and other lands in unspecified public ownership.

## Covered Activities

Only activities by the covered parties that are conducted in the plan area and are identified in the HCP will be covered by the authorizations for incidental take. These activities are listed and described in Table S-1.

## Occurrence and Estimated Take of the Covered Species

The four covered species are the only federally and State listed species known to occur within the plan area. Each will be affected by the covered activities.

**Figure S-1. Wash Plan HCP Plan Area and Subcomponents**

**Table S-1. Activities Covered by the Wash Plan HCP and Incidental Take Authorizations**

<b>Covered Party/Activity</b>	<b>Description</b>
<b>SBVWCD</b>	
Existing and Future O&M	
Water Recharge	Diverting native Santa Ana River water and conveying the water by way of canals and similar facilities to groundwater spreading basins made of earthen dikes. Periodic maintenance to assure efficient recharge percolation rates.
Culverts	Clearing encroaching vegetation, filling ruts and potholes, grading, resurfacing (with gravel or compacted soil), and repairing washouts. Vegetation control usually occurs annually and other activities occur every 2-3 years.
Canals	Clearing encroaching vegetation, removing sedimentation, and repairing washouts or erosion. Washout and erosion repair is typically accomplished by filling in the eroded area with native material and sometimes grouted rock. Vegetation control usually occurs annually and other activities occur infrequently.
Access Roads	Clearing encroaching vegetation, clearing of debris or sediment in the nearby canal, and repairing damage to the nearby canal or the culvert itself. Repairing the culvert itself typically requires excavation of the roadway. Vegetation control usually occurs annually, sediment removal every 2-3 years, and the remaining activities infrequently.
Dikes	Occasional excavation and compaction of the dike material at the source of leaks, similar work to replace broken overflow culverts, and repair of washouts. Such repairs occur infrequently.
Basins	Clearing encroaching vegetation and removal of sediment. Vegetation control usually occurs annually. Sediment removal occurs every 1-5 years depending on the basin, storm intensity, and other variables. Removed sediment is used for dike, canal, and access road maintenance or exported offsite.
Diversion Structures	Clearing encroaching vegetation and debris or sediment from the nearby canal, repair of the nearby canal, and repair of damage to the structure itself. Vegetation control usually occurs annually, sediment removal every 2-3 years, and the remaining activities infrequently.
New Facilities	Phased construction of new water spreading or conservation facilities and new water recharge facilities (dikes, canals, culverts, basins, diversion structures), including required access roads, within areas designated in the Wash Plan for water conservation and joint habitat/water conservation. Habitat impacts from new facilities will be limited to 31% of total acreage in each of three phases. Phase 3 will occur on BLM lands that were part of the land exchanges under the Wash Plan and are identified as Additionally Managed under the HCP.
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures on Newly Conserved, Additionally Managed, and Other SBVWCD Lands.
<b>SBCFCD</b>	
Existing and Future O&M on the Sections of the Santa Ana River, Mill Creek, Plunge Creek, and City Creek within the Plan Area	Weed control (with the use of herbicides, scrapers, dozers, and/or loaders). Levee repair along toe and top of the levee utilizing placement of fill material, stone, etc. Erosion repair and/or sediment removal along toe of the levee, access roads, etc. Rebuilding storm-damaged facilities as routine or during an emergency. Protection of public or private facilities. Maintaining security structures such as gates, barriers, or fencing. Installation of drains, piping, or utilities crossing flood control facilities. Low-flow channel work.

<b>Covered Party/Activity</b>	<b>Description</b>
New Construction	No new facilities are proposed.
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures on Other Flood Control Lands.
<b>City of Highland</b>	
Road Improvements	
Greenspot Road	Realignment and widening of Greenspot Road and replacement of Greenspot bridge. Preparation and use of temporary staging areas
Orange St/Boulder Ave	Improvements within a 135 foot right-of-way, including curb separation, curb, gutter, sidewalk, and graded shoulder.
Trails	Class 3 and 4 trails, as identified in the Wash Plan, including trail segments on BLM lands. Installation of signage. Vegetation control and surface maintenance. Erosion control and repairs.
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures on the Highland Mitigation Lands in the plan area
<b>City of Redlands</b>	
Road Improvements	
Alabama Street	Widening of Alabama Street from the northern limits of the Alabama St/Santa Ana River bridge to the northern Redlands City limits. Preparation and use of a temporary staging area.
Orange St/Boulder Ave	Widening of Orange Street south of the Orange Street Bridge for about 1,000 feet. Preparation and use of a temporary staging area.
Trails	Class 3 and 4 trails, as identified in the Wash Plan, including trail segments on BLM lands. Installation of signage. Vegetation control and surface maintenance. Erosion control and repairs.
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures on Newly Conserved Lands dedicated by City.
<b>Cemex</b>	
Alabama Street Quarry	Aggregate mining on 51 acres in the existing Alabama Northwest Pit. Mining of sand and gravel from the site. Operation of the existing ready-mix concrete batch plant and asphalt plant. Use of the existing maintenance facilities. Use and maintenance of haul roads. Maintenance of setbacks from Alabama Street. Reclamation of finished slopes as portions of the quarry reach final grade.
West Quarry	Aggregate mining within a 176-acre quarry site (includes an existing pit) Use and maintenance of haul roads. Maintenance of the setback from the Caltrans ROW. Reclamation of finished slopes as portions of the quarry reach final grade.
East Quarry North	Aggregate mining within a 420-acre quarry site (includes previously mined areas). Operation and maintenance of the Orange Street processing plants, silt ponds, and aggregate storage facilities. Reconfiguration of the Orange Street processing plant. Relocation of processing plant facilities to east side of site.



Covered Party/Activity	Description
	Use and maintenance of haul roads. Maintenance of the setback from Orange Street/Boulder Avenue ROW. Reclamation of finished slopes as portions of the quarry reach final grade.
5 <sup>th</sup> Street Access Road	Construction, use, and maintenance of new access road along the existing City Creek levee located on the east side of City Creek between 5 <sup>th</sup> Street and the east-west boundary of the plan area. (Road to be used by Robertson's as well as Cemex.)
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures within Cemex's portions of the Mining Area.
<b>Robertson's</b>	
Plunge Creek Quarry	Aggregate mining within a 30-acre quarry site. Use and maintenance of existing haul roads. Reclamation of the site to allow drainage into Plunge Creek, through final contouring, ripping compacted areas, covering slopes with available salvaged topsoil, and revegetation of the slopes and berm on the south side of the quarry.
Silt Pond Quarry	Aggregate mining within a 98-acre quarry site. Use and maintenance of haul roads. Maintenance of the setback from the Orange Street/Boulder Avenue ROW. Reclamation during mining by maintaining stable slopes. (The completed quarry would be used to deposit the silt-laden water from the Robertson's and Cemex processing plants.)
East Quarry South	Aggregate mining within a 291-acre quarry site (includes previously mined areas). Use and maintenance of haul roads. Reclamation on upper slopes during mining by contouring slopes; final reclamation of the lower slopes at the end of mining. (End use is groundwater storage or recharge basin or recreation.)
5 <sup>th</sup> Street Access Road	Construction, use, and maintenance of new access road along the existing City Creek levee located on the east side of City Creek between 5 <sup>th</sup> Street and the east-west boundary of the plan area. (Road to be used by Cemex as well as Robertson's.)
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures within Robertson's portions of the Mining Area.

## SBKR

Habitat assessments and trapping studies have consistently found SBKR in suitable habitat throughout the plan area. However, not all suitable habitat in the plan area has been surveyed and not all areas with what appears to be suitable habitat are occupied by SBKR.

To better extrapolate biological data for SBKR across the plan area, a predictive species distribution model was developed by ICF Jones & Stokes using multiple layers of GIS data compiled by M.J. Klinefelter as part of a habitat assessment of the Wash (see Appendices B and C for the reports). The SBKR model was generated using a series of four landscape variables (or data layers): topography, geology, vegetation, and aerial photography (although topography was eventually dropped from the model). The model ranked all lands in the plan area as having "high," "moderate," "low," or "no" potential habitat suitability. Table S-2 indicates the acres per suitability category within each of the plan area subcomponents.

**Table S-2. SBKR Habitat Suitability Model Results (acres)**

Plan Area Subcomponent	Predicted Suitability of Habitat for SBKR				
	High Potential	Moderate Potential	Low Potential	No Potential	Total
Newly Conserved	282.71	155.09	297.25	67.35	802.40
Additionally Managed	314.70	200.94	82.67	20.15	618.46
Mining Impact Area	193.40	190.97	57.11	754.60	1196.08
Road Impact Area	6.59	4.39	5.67	5.64	22.29
Other SBVWCD Lands	22.34	54.46	329.00	395.71	801.51
Other Flood Control Lands	322.14	19.92	12.21	21.96	376.23
Other Lands	9.23	11.98	5.8	33.51	60.52
WSPA	296.13	138.64	88.19	21.59	544.55
Highland Mitigation Lands	3.49	8.51	2.10	1.44	15.54
Developed	0.03	0.00	0.23	29.40	29.66
Total	1450.76	784.90	880.23	1351.35	4467.24

Because of their nocturnal and burrow-dwelling characteristics, individual SBKR are at high risk of direct harm from covered activities that entail ground disturbance. Approximately 611 acres of suitable habitat would be removed over time as a result of covered activities.

## Gnatcatcher

Distribution of the Gnatcatcher within San Bernardino County is not well known and is based on sporadic sightings and occasional project-related studies (Davis et. al 1998). Based on available sources, there are seven records of Gnatcatcher occurrence in the plan area. There are also 8 Gnatcatcher locations just outside the plan area at the end of Opal Avenue and 3 locations to the northeast of the base of Crafton Avenue. No Gnatcatcher nests have been observed in the plan area. However, several breeding pairs occur just to the south, and these individuals are likely use to the plan area for foraging. There also is suitable nesting habitat in the plan area that ultimately may be used by the breeding pairs in the future. Table S-3 indicates the acres of Gnatcatcher foraging and potential nesting habitat within the plan area subcomponents.

There is a low-to-no probability of direct harm to individual Gnatcatchers from the covered activities. Approximately 612 acres of Gnatcatcher habitat (including approximately 8 acres of potential nesting habitat) would be removed over time as a result of covered activities.

**Table S-3. Gnatcatcher Foraging and Potential Nesting Habitat in the Plan Area (acres)**

Plan Area Subcomponent	Foraging	Potential Nesting	Not Habitat	Total
Newly Conserved	704.25	30.64	67.40	802.29
Additionally Managed	586.50	0.00	31.81	618.31
Mining Impact Area	434.59	7.72	753.69	1196.00
Road Impact Area	16.51	0.00	5.75	22.26
Other SBVWCD Lands	448.74	0.00	352.67	801.41
Other Flood Control Lands	348.00	8.57	19.61	376.18
Other Lands	34.00	0.00	26.79	60.79
WSPA	530.42	0.00	14.35	544.77
Highland Mitigation Lands	14.10	0.00	1.44	15.54
Developed	0.03	0.00	29.64	29.67
Total	3117.14	46.93	1303.15	4467.22

## Woollystar

Based on available sources, there are 2,125 locations where Woollystar have been recorded in the plan area. Key locations include along the floodplain of the Santa Ana River, Plunge Creek, and Mill Creek. Of the recorded occurrences, 41 were mapped in developed areas and may no longer be extant. Table S-4 indicates the number of plants observed within 15 meters x 15 meters survey grids.

Woollystar in 438 known locations will be removed in connection with covered activities. The exact number of plants removed cannot be estimated with reasonable certainty.

## Spineflower

Based on available sources, there are 65 records Spineflower occurrence in the plan area. Table S-5 indicates the number of records per source.

Covered activities potentially will affect all Spineflower that are not on conserved lands in the plan area (i.e., Spineflower in areas outside of WSPA and Additionally Managed or Newly Conserved Lands). The number of plants that will be affected cannot be estimated with reasonable certainty.

**Table S-4. Records of Woollystar Occurrence in the Plan Area**

Plan Area Subcomponent	Number of Grids by Number of Plants Observed within Grid					
	>50	25-50	1-25	Present, # unknown	Not Present	Total
Developed	1	1	4	0	258	264
Highland Mitigation Lands	0	0	0	0	116	116
WSPA	52	54	198	174	3,087	3,565
Mining Impact Area	41	79	223	91	7,425	7,859
Road Impact Area	0	1	1	2	197	201
Newly Conserved	60	100	249	144	4,743	5,296
Additionally Managed	55	64	182	220	3,509	4,030
Other SBVWCD Lands	2	1	13	42	5,212	5,270
Other Flood Control Lands	2	2	22	36	2,512	2,574
Other Lands	0	0	3	6	402	411
Total	213	302	895	715	27,461	29,586

**Table S-5. Records of Spineflower Occurrence in the Plan Area**

Data Source	Records of Occurrence*					
	Newly Conserved	Additionally Managed	Mining Impact Area	Road Impact Area	All Other	WSPA
CNDDB – 1992	0	2	3	0	0	2
S. Eliason/M. Meyer - 1997	1	22	36	0	0	6
SAIC 2005	0	6	0	0	0	1
SAIC 2006	0	6	0	0	1	3
USACE – 1999	0	10	3	1	0	6

\* The number of records does not represent the number of populations or plants observed in a location.

## Conservation Program

To conserve populations of the covered species in the plan area and minimize and mitigate the effects of take, the covered parties will implement a conservation program that designed to achieve specific biological goals and meet FESA and CESA requirements.

### Biological Goals

The biological goals of the HCP are as follows:

- Goal 1: Conserve habitats in the plan area in a configuration that will sustain populations of SBKR, Woollystar, and Spineflower while also supporting Gnatcatcher and other special status species.
- Goal 2: Conserve habitat linkages across and to areas outside the plan area in order to provide connectivity between populations of covered species and provide opportunities for wildlife movement through the Wash.
- Goal 3: Conserve at least one acre of SBKR habitat for each acre removed by covered activities, and provide for the management of at least two acres (including the acres conserved) for each acre removed.
- Goal 4: Conserve at least as many Woollystar locations as are removed by covered activities, and provide for the management of those locations and suitable Woollystar habitat outside the WSPA in the plan area.
- Goal 5: Mitigate the effects of Spineflower take and contribute to the recovery of Spineflower through the implementation of a Spineflower relocation and enhancement program in cooperation with USFWS and CDFG.
- Goal 6: Conserve foraging and nesting habitat for Gnatcatcher within the plan area.
- Goal 7: Control the spread of non-native invasive plant species within the plan area and enhance the habitat conserved under the HCP for the covered species by removing such non-native invasive plants.

### Habitat Conservation and Management

SBVWCD and the other participating agencies will provide for the permanent conservation and management of approximately 735 acres (the Newly Conserved Lands on Figure S-1) and provide for the enhanced management and monitoring of an additional 598 acres (the Additionally Managed Lands on Figure S-1). The Newly Conserved and Additionally Managed Lands are contiguous with one another and with the WSPA. They also maintain north-south habitat linkages across the plan area and to natural open space outside the plan area to the southeast and northwest. Table S-6 indicates estimated take in relation to the species' resources on Newly Conserved and Additionally Managed Lands.

**Table S-6. Newly Conserved Lands and Additionally Managed Lands in Relation to Estimated Impacts**

Covered Species	Estimated Impacts <sup>1</sup>	Conservation/Mitigation			
		On Newly Conserved Lands	On Additionally Managed Lands	Total	
SBKR (acres) <sup>2</sup>					
Habitat with High Suitability	199.99		282.71	314.70	597.41
Habitat with Moderate Suitability	195.36		155.09	200.94	356.03
Habitat with Low Suitability	62.78		297.25	82.67	379.92
Estimated Additional Impacts <sup>3</sup>	153.00		0	0	0
Total	611.13		735.05	598.31	1333.36
Gnatcatcher (acres)					
Foraging Habitat	451.10		704.25	586.50	1290.75
Potential Nesting Habitat	7.72		30.64	0	30.64
Estimated Additional Impacts <sup>3</sup>	153.00		0	0	0
Total	611.82		734.89	586.5	1321.39
Woollystar (# of plants observed/# of Grids Where Observed)					
>50 plants	41		60	55	115
25-50 plants	80		100	64	164
1-25 plants	224		249	182	431
Present, # unknown	93		144	220	364
Total (grids)	438		553	521	1074
Estimated Additional Impacts	Low Probability <sup>4</sup>		0	0	0
Spineflower					
Records of occurrence	43		1	46	47
Estimated Additional Impacts	Low Probability <sup>5</sup>		--	--	--

**Notes**

<sup>1</sup> Impact estimates for SBKR and Gnatcatcher were calculated based on the amount of habitat for each species in the Mining Area and Road Impact Area. For SBVWCD's water conservation projects, the impact cap identified in the Wash Plan EIR was used as the estimate (143 acres). For SBCFCD's O&M, 10 acres was used as the estimate.

<sup>2</sup> Acres of habitat per suitability category as modeled for the entire plan area (see Appendix C).

<sup>3</sup> Includes 143 acres for SBVWCD Phase 2 and 3 water conservation projects and 10 acres for SBCFCD O&M.

<sup>4</sup> There is a low probability that SCVWCD's water conservation projects would result in take of Woollystar because of the known location of Woollystar in relation to the overall area where the projects ultimately will occur. Some flood control O&M activities may entail impacts to individual Woollystar adjacent to existing facilities; flood control O&M would not remove a population or cluster of Woollystar.

<sup>5</sup> There is one record of Spineflower occurrence on Other SBVWCD Lands from a 2006 survey of BLM ownership. Most these lands have limited potential for Spineflower occurrence. There is a low-to-no possibility that SBVWCD O&M or of the water conservation projects would result in the loss of Spineflower. There are no records of Spineflower and limited potential for Spineflower occurrence on SBCFCD lands, and no impacts to Spineflower are expected from flood control O&M activities.

## **Adaptive Management and Monitoring**

Because of the cryptic nature of SBKR, Woollystar, and Spineflower, management and monitoring of populations and habitat conditions will require a special approach. Details of the ongoing programs for SBKR, Woollystar, and Spineflower will be developed and field-tested over the first five years of HCP implementation through a combination of HCP-sponsored work and cooperative efforts with USFWS, CDFG, BLM, and USACE. Gnatcatcher management and monitoring will not require extraordinary measures and will be coordinated with the special programs for the other three species. The measures for the covered species will be identified in an Adaptive Management and Monitoring Plan (AMMP) initiated in year 2 of HCP implementation and completed no later than year 5.

The AMMP will cover a 5-year period and will be updated every three years. The AMMP will identify habitat management and monitoring measures to be implemented on Newly Conserved and Additionally Managed Lands over the five-year period, the costs and available funding for the measures, criteria for determining the success of the measures, and an evaluation of the effectiveness of the measures implemented to date.

The AMMP measures apply to the Newly Conserved and Additionally Managed Lands within the plan area; they are not prescriptions for activities within the WSPA, which is managed under a separate habitat management plan.

### **SBKR Measures**

Management and monitoring measures for SBKR will focus on maintaining and enhancing SBKR habitat, monitoring SBKR occurrence in key locations, maintaining SBKR movement corridors, and other related measures.

#### **SBKR Habitat Management and Enhancement**

Areas within Newly Conserved and Additionally Managed Lands will be managed and enhanced for the benefit of SBKR, primarily through measures to control non-native grasses and forbs and reducing the density of shrub cover.

#### **Controlling Non-Native Grasses and Forbs**

Efforts to control of non-native grasses and forbs will be planned and conducted in phases. In the first year of HCP implementation, SBKR habitat on Newly Conserved and Additionally Managed Lands will be assessed for the occurrence of non-native grasses and forbs and sites will be identified and prioritized for management. Where possible, sites will be identified that include both SBKR and Woollystar habitat. The assessment will be conducted using aerial imagery and in field observations. Criteria for ranking sites, the methods to be used at each site, and criteria for evaluating the success of the measures will be subject to review by USFWS.

Implementation will be scheduled so that management measures have been initiated in the highest priority sites no later than year three of HCP implementation. The effectiveness of measures applied to an individual site will be evaluated and changed as needed if monitoring data for two consecutive years indicate that success criteria are not being met. The overall effectiveness of the measures in maintaining and enhancing habitat for SBKR will be evaluated after the highest priority sites have been managed and monitored for five years.

### **Reducing Shrub Cover**

Reducing the density of shrub cover in select areas has the potential to maintain or re-establish conditions suitable for SBKR on Newly Conserved and Additionally Managed Lands, especially in areas no longer scoured by flood events. Potential sites for shrub cover reduction will be identified at the same time as the assessment of SBKR habitat for non-native grasses and forbs. Three sites will be selected as study plots for testing and refining shrub removal techniques. Criteria for selecting study plots, the methods to be used at each plot, and criteria for evaluating the success of the measures will be subject to review by USFWS. The implementation of measures on the study plots will be initiated no later than year three of HCP implementation. The effectiveness of the techniques in maintaining or re-establishing conditions suitable for SBKR will be evaluated after the study plots have been managed and monitored for five years. If the evaluation demonstrates that the technique is effective, the measures will be applied to other sites. The other sites will be selected based on criteria determined as part of the five-year evaluation.

### **SBKR Population Monitoring**

SBKR occurrence on some Newly Conserved and Additionally Managed Lands is not well known. Trapping will occur in select areas during the first three years of HCP implementation, so that management goals and strategies can be more clearly defined. The recommended methodology is to use a series of small 5×5 grids (25 total traps per grid) set at 7-meter spacing; the “footprint” of each grid would be 28 meters × 28 meters (= 784 m<sup>2</sup> or 0.784 ha).

A method for ongoing monitoring of SBKR populations on Newly Conserved and Additionally Managed Lands will be developed and submitted to USFWS for review no later than year 5 of HCP implementation. Methods may include but are not limited to establishment of monitoring plots and/or presence/absence surveys.

### **Monitoring and Maintaining SBKR Movement Corridors**

SBKR movement corridors are essential to the dispersal of SBKR into areas of suitable habitat as seral stages change and to the genetic health of the local SBKR population. Two types of management actions will be applied to Newly Conserved and Additionally Managed Lands to ensure that SBKR can move across the landscape, especially between Plunge Creek and the Santa Ana River:

1. Managing long-linear strips of habitat to maintain relatively open conditions conducive to SBKR movement; and
2. If feasible, re-establishing a movement corridor over D-dike.



To maintain or replicate corridor conditions, management measures will be used to remove grasses and forbs and reduce shrub cover in long linear strips. There will be larger patches of suitable habitat where SBKR could reside along the linear strip. The strips would be at least as wide as the average dirt road (which are known to be used SBKR), approximately 7 meters in width, with live-in patches of suitable habitat at least 15 meters x 15 meters in size and spaced at least every 100 meters (the distance SBKR can move within a single evening). The ultimate goal would be to increase movement of SBKR between two larger occupied areas that may be currently separated by less suitable habitat. A study “strip” for this technique will be identified as part of the vegetation and species occurrence database updates in year three of HCP implementation. Criteria for selecting the study strip, the methods to be applied, and criteria for evaluating success will be subject to review by USFWS. The measures will be initiated at the study strip no later than year five of HCP implementation, and their effectiveness will be evaluated after the strip has been managed and monitored for five years. If the evaluation demonstrates that the technique is effective, the measures will be applied to other sites.

Once vegetation management techniques have been applied to the southeast trending corridor between Plunge Creek and the Santa Ana River, one or more crossings of D-dike will be considered. Based on conceptual plans, the crossing(s) would need to be approximately 10 meters wide, constructed of a suitable sandy substrate, and strategically placed where trapping results indicate presence of SBKR and/or where historical scouring has occurred. A native seed mix would be applied to achieve sparse vegetative cover. Although there are several potential designs for crossing D-dike, the simplest may be to create an earthen land bridge with a perpendicular culvert underneath to allow unrestricted flow of percolation water. Figure 11 shows potential locations for crossings. The SBVWCD will consult with a qualified SBKR biologist and USFWS to select a corridor design that is cost-effective and biologically functional. Final decisions regarding the corridor(s) across D-dike would not occur until year 10 of HCP implementation (or later).

### **SBKR Habitat Suitability Model Update and Evaluation**

The SBKR habitat suitability model will be used in connection with assessing habitat conditions and monitoring plan implementation, with the model’s databases and parameters updated and refined as needed. The first update and evaluation will occur when the vegetation database for the plan area has been updated. Criteria for evaluating the effectiveness of the model will be established as part of the AMMP. The efficacy of the model as a planning and monitoring tool will be evaluated at least every five years.

### **Gnatcatcher Measures**

Management of Gnatcatcher foraging habitat will occur as part of non-native controls and related measures for SBKR and Woollystar. If nesting Gnatcatchers occur in the plan area, an adaptive management program to maintain and potentially expand nesting habitat will be developed and implemented. The nesting habitat management program will be subject to review by USFWS.

## **Woollystar Measures**

The focus of the AMMP for Woollystar is managing non-native grasses and forbs and ongoing monitoring of Woollystar populations.

### **Woollystar Habitat Management and Enhancement**

Management of Woollystar habitat will include the control measures for non-native grasses and forbs identified for SBKR. An assessment of non-native grass and forb occurrence will be conducted at the same time as the SBKR habitat assessment, and sites will be identified and prioritized for management. Where possible, sites will be identified that include both SBKR and Woollystar habitat. The assessment will be conducted using aerial imagery and in field observations. Criteria for ranking sites, the methods to be used at each site, and criteria for evaluating the success of the measures will be subject to review by USFWS. Implementation and evaluation of the measures in Woollystar habitat will occur in the same time-frame and manner as the measures in SBKR habitat.

### **Woollystar Population Monitoring**

Grids previously surveyed on Newly Conserved and Additionally Managed Lands will be selected for ongoing monitoring of Woollystar populations. The process and criteria for selecting the monitoring grids and the monitoring data to be collected will be provided to USFWS and CDFG for review no later than year 5 of HCP implementation. Monitoring will begin no later than year 6 of plan implementation.

## **Spineflower Measures**

The focus of the AMMP for Spineflower is maintaining existing populations on Additionally Managed Lands (and any found on Newly Conserved Lands) and initiating implementation of the relocation and enhancement program.

### **Spineflower Data Collection**

Some Newly Conserved and Additionally Managed Lands have not been surveyed for Spineflower. To help guide management and monitoring decisions, Spineflower surveys will be conducted by a qualified botanist in those areas prior to the application of any habitat management techniques to those areas. All such surveys will be completed no later than year 3 of HCP implementation.

### **Spineflower Relocation and Enhancement Program**

Working in cooperation with BLM, USFWS, and CDFG, test plots will be identified on Additionally Managed Lands (and on Newly Conserved Lands, if Spineflower are found there) for Spineflower relocation and habitat enhancement techniques. The study design will be developed based on the recommendations prepared by USFWS for the Wash Plan in 2007, with refinements made based on consultations with CDFG and other experts on Spineflower. A five-year study will be conducted to determine if relocation and enhancement show adequate promise to be accepted by USFWS and CDFG as feasible conservation and mitigation measures for impacts to Spineflower. Development of this program is part of the mitigation for the

impacts to Spineflower from the incidental take allowed during the first five years of implementation. The measures identified through the program will be the measures applied as mitigation for incidental take of the previously-avoided Spineflower in the Mining Impact Area.

### **Spineflower Population Monitoring**

Monitoring plots will be established at the same time that study plots are identified for the relocation and enhancement program. The process and criteria for selecting the monitoring plots and determination of the monitoring data to be collected will be developed in cooperation with USFWS and CDFG; collection of data at the plots will begin no later than year 5 of plan implementation.

## **GIS Database and Vegetation Map Updates**

A GIS database for management and monitoring will be established and maintained for the duration of HCP implementation. The database will include but not be limited to property ownership, conservation easements, utility and road easements and rights of way, existing facilities and land uses, plan area boundaries, the boundaries of plan area subcomponents, vegetation types, species occurrence records, watersheds, location of monitoring and study plots, areas where habitat has been removed by covered activities, areas where habitat has been enhanced under the HCP, and other information relevant to plan implementation.

The vegetation database will be updated based on an infield assessment and use of aerial imagery within three years of plan and ITP approval. Thereafter, the vegetation data base will be updated at least every five years. Species occurrence layers will be updated as new data become available, with the update made on a scheduled basis and at least annually.

## **Impact Avoidance and Minimization Measures**

To avoid and minimize actual instances of take and reduce the effects of unavoidable take, the following measures will apply to covered activities in the plan area.

1. Prior to land disturbance in a designated impact area, the covered party will be responsible for the following measures as applicable:
  - a. Conduct surveys for Spineflower if suitable habitat is present and the area has not been surveyed for Spineflower;
  - b. Provide USFWS and CDFG with the opportunity to collect Woollystar seed and salvage Spineflower for the relocation program; and
  - c. Identify sensitive resources adjacent to the impact area and use onsite monitors and temporary fencing to prevent impacts to those resources

2. Take of Spineflower in the center of Section 11 in the Mining Area (between the existing quarries) shall be avoided until USFWS and CDFG have determined that the Spineflower enhancement and relocation program is successful or decide to modify or abandon the program. If the program is successful, take of the previously avoided Spineflower will be mitigated through implementation of the applicable relocation and enhancement measures. If the program is abandoned or modified, take from that point on will be mitigated through measures determined in cooperation with USFWS and CDFG at that time. Failure of the Spineflower enhancement and relocation program will constitute a Changed Circumstance.
3. The SBVWCD's Phase 2 and 3 water conservation projects will be planned and designed to limit total habitat impacts to 31% of the total acreage within each Phase (92 and 51 acres, respectively) and to avoid impacts to Spineflower (if found to occur in the areas).
4. All covered mining activities shall be conducted within the Mining Impact Area; impacts shall not extend into adjacent habitat, regardless of whether the adjacent habitat is conserved or not.
5. All covered road and bridge projects improvements shall be conducted within the Road Impact Area; impacts shall not extend into adjacent habitat, regardless of whether the adjacent habitat is conserved or not.
6. O&M activities by the SBVWCD and SBCFCD within the plan area shall be conducted to minimize the potential for direct harm to individual SBKR or Gnatcatcher that might be incidentally present.
7. If a covered activity would entail vegetation clearing or ground disturbance in an area with Gnatcatcher foraging or nesting habitat. Gnatcatcher surveys will be conducted in the nesting season prior to the proposed activity. If Gnatcatcher nests are found in or near the impact area for the covered activity, vegetation clearing and ground disturbance will not be allowed during the Gnatcatcher breeding season (mid-February through mid-August) and may not proceed until after fledging occurs or it is demonstrated that the nest(s) have failed.
8. Vehicular traffic off of maintained roads in Newly Conserved and Additionally Managed areas will be restricted to daylight hours to avoid road kill of SBKR, except for emergency response.
9. New and improved roads and bridges will be limited to those identified in the list of covered activities (see Table S-1).
10. Public trails will make use of existing roads and pathways to the maximum extent possible.
11. Covered activities on Newly Conserved and Additionally Managed Lands will be conducted to avoid take of covered species to the maximum extent possible, and the habitat impacts on these lands resulting from the SBVWCD's Phase 3 water conservation facilities shall not exceed 52 acres.
12. Implementation of the impact avoidance and minimization measures will be overseen by a biological monitor with qualifications acceptable to USFWS and CDFG (also see "Compliance Monitoring and Reporting").

## Compliance Monitoring and Reporting

This HCP must be monitored over time to determine if implementation measures are achieving goals and objectives of the Plan. Monitoring results will be discussed at annual coordination meetings and in annual public reports.

### Tracking of Conservation and Impacts

The SBVWCD as Program Administrator will be responsible for the annual accounting of the acreage, type, and location of vegetation communities conserved and impacted by permitted land uses and other activities within the plan area. Records will be maintained in a GIS database.

### Annual Reporting

An annual public report will be prepared and distributed that will demonstrate compliance with the terms and conditions of the HCP, ITP, and Implementation Agreement (IA). Amendments or administrative corrections will also be reported.

Annual reports will be prepared and submitted to USFWS by October 31 of each year to evaluate compliance with the HCP and to determine if the goals and objectives of the HCP are being met. These reports will include:

1. Results of the monitoring and management program for the covered species;
2. Habitat impacts from covered activities in the prior year;
3. Progress made in meeting the biological goals and objectives of the HCP;
4. Any instances of non-compliance with the terms of the ITP;
5. An accounting of expenditures and available funds for HCP implementation; and
6. Problems or issues identified during implementation and the steps taken or recommended to address them.

A copy of the report will be provided to CDFG.

If, after 10 years, the goals and objectives are being met, reporting can be decreased to every five years, with approval from USFWS.

## Responses to Changed Circumstances

Changed circumstances are defined under the federal “No Surprises” Rule as “changes in circumstances affecting a species or geographic area covered by a conservation plan that can reasonably be anticipated by plan developers and the USFWS and that can be planned for.” Pursuant to the “No Surprises” Rule, USFWS may not require (1) any conservation or mitigation measures in addition to those provided in the HCP in response to a changed circumstance or (2) additional conservation or mitigation measures for any changed circumstance not identified in the HCP without the consent of the plan participants, provided the HCP is being properly implemented.

This HCP identifies and includes provisions for responding to the following types of changed circumstances: climate change, fire, drought, 100-year floods, invasion of invasive exotic species, listing of species not covered by the HCP, and failure of the Spineflower Enhancement and Relocation Program. Responses to changed circumstances will be developed and applied as part of the AMMP.

## Responses to Unforeseen Circumstances

Unforeseen circumstances are events or changes in circumstances affecting a species or geographical area covered by an HCP that cannot be reasonably anticipated and that result in a substantial and adverse change in the status of the covered species. (All reasonably foreseeable changes or events are addressed under “Responses to Changed Circumstances”). In the event that an unforeseen circumstance occurs during implementation of the HCP, the SBVWCD shall immediately notify USFWS. In determining whether the event triggers the need for responses, USFWS shall consider, but not be limited to, the following factors: size of the current range of the affected species; percentage of range adversely affected by the HCP; percentage of range conserved by the HCP; ecological significance of that portion of the range affected by the HCP; level of knowledge about the affected species and the degree of specificity of the species’ conservation program under the HCP; and whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

If USFWS determines that additional conservation and mitigation measures are necessary to respond to the unforeseen circumstance where the HCP is being properly implemented, the additional measures required of the permittee must be as close as possible to the terms of the original HCP and must be limited to modifications within conserved habitat area or to adjustments within lands or waters that are already set-aside in the HCP’s operating conservation program. Additional conservation and mitigation measures shall involve the commitment of additional land or financial compensation or restrictions on the use of land or other natural resources otherwise available for development or use under the original terms of the HCP only with the consent of the permittee.

## Amendment Procedures

During the 50-year permit period, amendment of the ITP would be required for any of the following changes:

- Significant revision of the permit area boundary;
- The federal listing of a species not currently addressed in this HCP that may be taken by covered activities;
- Modification of any important project action or mitigation component under the HCP, including funding, that may significantly affect authorized take levels, effects of the project, or the nature or scope of the mitigation program; or
- Any other modification of the project likely to result in significant new adverse effects to the covered species not addressed in the approved HCP.

The HCP may be amended without amending its associated permit, provided that such amendments are of a minor or technical nature and that the effect on the species involved and the levels of take resulting from the amendment does not exceed that described in the approved HCP.

To amend the HCP without amending the permit, the permittee must submit to USFWS in writing a description of the proposed amendment, an explanation of why the amendment is necessary or desirable, and an explanation of why the effects of the proposed amendment are believed not to be significantly different from those described in the approved HCP. If USFWS concurs with the amendment proposal, it shall authorize the HCP amendment in writing, and the amendment shall be considered effective upon the date of USFWS's written authorization.

## Institutional Structure

Implementation of the HCP will proceed under the following institutional and administrative arrangements:

1. Consistent with its role as the entity responsible for coordinating implementation of the Wash Plan, the SBVWCD shall be the Program Administrator for HCP implementation and shall administer the Section 10(a)(1)(B) permit and Section 7 incidental take authorization.
2. In its capacity as Program Administrator, the SBVWCD shall provide for an HCP Implementation Team to administer the HCP. The HCP Implementation Team shall consist of an Executive Director, Habitat Conservation Program Manager, Biological Consultants, and a Wash Plan Advisory Committee.
  - a. The General Manager for the SBVWCD shall serve as the Executive Director, and will be responsible for overall administration of the HCP program, including preparation of the annual budget, submittal of annual reports to USFWS and CDFG, maintenance of all program records, and serve as chairperson of the Advisory Committee. The Executive Director will ensure that there is full compliance by all parties covered by the 10a Permit with the terms and conditions of the ITP.
  - b. The Habitat Conservation Program Manager shall be responsible for overseeing development and implementation of the management programs for conserved habitat, preparation of annual reports, consultation with the USFWS and CDFG as needed, preparation of annual work programs and the completion of implementation actions in fulfillment of HCP commitments. The Program Manager will oversee any and all consultant work performed to implement the HCP programs.
  - c. Biological Consultants shall be retained to provide required technical assistance in the development and implementation of the adaptive management and monitoring programs and compliance with habitat management measures, species surveys and other biological oriented activities.

- d. The Wash Plan Advisory Committee shall include representatives of the covered parties and one at-large member. The USFWS, CDFG, BLM, and a WSPA Management Committee representative will participate as ad hoc members. The Committee will provide advice to the SBVWCD on HCP activities.
3. With regard to the authorizations for incidental take, the SBVWCD shall be the permittee for the ITP and non-federal project proponent for the Section 7 take authorization statement. Take associated with Section 7 authorizations involve Wash Plan activities on federal land administered by the BLM. These activities consist of: a) construction of Phase III water conservation facilities, b) modifications to “D-Dike” for SBKR corridor movement and c) in cooperation with the cities, establishing hiking/interpretive trails within existing disturbed alignments. The authorization for incidental take would be conditioned on preservation of the proposed Newly Conserved Lands under conservation easements or comparable arrangements, execution of an agreement between the SBVWCD and BLM and other entities as needed regarding the Additionally Managed Lands, and ensuring compliance with permit terms and conditions by each covered party.
4. All covered parties (i.e., all entities covered by the authorizations for incidental take) will be required to notify the SBVWCD of specific activities covered by the ITP and Section 7 take authorizations prior to performing ground disturbing work. Covered parties will provide a certification with the terms and conditions of the ITP attesting to the party’s performance in compliance with ITP requirements. Covered parties will identify the lands where the impacts will occur, the required impact avoidance and minimization measures, the process by which the measures will be implemented, and post-impact monitoring requirements. The information on the certification will be reviewed for conformance with the approved HCP by the Executive Director. Certifications will be included in the annual reports submitted to the USFWS and CDFG.
5. Implementation of the HCP will be overseen by the Wash Plan Advisory Committee. All meetings of the Advisory Committee shall be open to the public.
6. USFWS, CDFG, and BLM shall provide technical advice to the HCP Implementation Team and HCP Advisory Committee and shall participate in meeting discussions and program review.
7. Implementation of the HCP will be planned and conducted under annual and five-year work plans prepared by the Executive Director with the assistance of the Habitat Conservation Program Manager and approved by the Advisory Committee and the SBVWCD’s Board of Directors. The five-year work plans will identify administrative, management, monitoring, and other tasks required during the period, cost estimates for the work in each year, and funding projections for the period. The annual work plans will specify tasks for the year and a line-item budget. The first five-year plan will be adopted within two years of plan and ITP approval. Annual work plans will guide implementation on a yearly basis. Thereafter, the five-year work plan will be updated every three years. The schedule for approval of the annual and five-year work plans shall coincide with the SBVWCD’s adoption of its annual work program and budget.
8. Time deadlines for review periods, responses to required consultations, and coordination of activities will be spelled out in the IA.



## **Funding Requirements, Sources, and Assurances**

### **Implementation Costs**

Estimated start-up and initial administrative costs in the first five years of implementation are estimated at \$1,178,750. Implementation costs in years 6-10 are estimated at \$1,236,250.

It is anticipated that after Year 10, implementation costs will decline relative to the costs of the first 10 years. Data collection and studies required for special AMMP measures for SBKR and Spineflower will be completed by Year 10 (or sooner), and effective, cost-efficient programs for ongoing management and monitoring will be in place. For purposes of estimating total implementation costs, it is assumed that 5-year costs in the second decade of implementation would be 30% lower than the Year 6-10 costs or approximately \$865,375 per 5-year period; 5-year costs in the remainder of the permit period would be 50% lower or approximately \$618,215 per 5-year period. Based on these estimates, implementation costs for Years 11-50 would be approximately \$5,439,500 (not adjusted for inflation).

### **Funding Sources**

The cost of plan implementation will be shared by the covered parties, based on the formula identified in the IA. In addition, the HCP Implementation Team will seek monitoring and research grants from government, non-profit, and private sources.

### **Funding Assurances**

As an assurance that adequate funding is available for plan implementation, the covered parties will establish and maintain a fund adequate to cover the first five-years of program implementation. Based on the estimated costs, the initial fund will be approximately \$1.3 million.

As part of the development of this HCP, multiple alternatives were considered regarding ways to avoid take of listed species and other conservation strategies. The primary alternatives considered and the reasons why each alternative was not selected are as follows.

## **Alternatives Considered**

Four alternatives to the taking of the four covered species were considered.

### **Complete Avoidance of Take**

Under this alternative, activities in the plan area would be conducted to avoid take of SBKR, Gnatcatcher, Woollystar, and Spineflower. Because of the broad distribution of SBKR and Woollystar, complete avoidance of take of all listed species would require substantial changes to existing and future O&M activities and to the design and implementation of planned projects in the Wash by all of the proposed covered parties. The impracticality of this alternative was the trigger for preparation of the Wash Plan as well as this HCP. The alternative was rejected in favor reconciling land use and species/habitat conservation goals for the Wash and seeking authorization for incidental take.

## **No Take of Spineflower**

Of the four proposed covered species, Spineflower is the most at risk. The plan area is one of only eight remaining locations for this narrow endemic plant species and one of only two locations in San Bernardino County. Further, the cryptic nature of this plant and limitations on what is known about why it occurs in certain areas make it difficult to plan for its conservation or to identify effective mitigation for impacts. Excluding Spineflower from the list of species covered by the plan and authorizations for take was considered in the early stages of HCP preparation but was rejected in favor of the approach developed in cooperation with USFWS and CDFG. That approach conditions take of Spineflower on the successful development of a relocation and habitat enhancement program for Spineflower in the Wash as part of HCP implementation. Because of the known and potential occurrence of Spineflower on lands that would be managed under the HCP, development of the relocation and enhancement program has the potential to directly contribute to the recovery of this species. In that context, a limited amount of incidental take could occur without posing jeopardy to the species.

## **Reduced Take of SBKR and Woollystar**

Under this alternative, impacts to SBKR and Woollystar would be reduced either by setting a limit on the acres of habitat or number of individuals taken or by limiting the size and location of the areas where take could occur in connection with mining and the SBVWCD's proposed water conservation projects (the two covered activities that would entail substantial impacts to both species). Limits on the size and locations of impact areas were considered in detail in the Wash Plan EIR, which analyzed a reduced mining area impact area, alternate locations for mining operations, and alternate plans for the water conservation projects. These options were rejected in favor of increasing the amount of conservation in proportion to take and creating a Wash-wide preserve system for these species by adding conserved lands in areas adjacent to the WSPA.

## **Comprehensive Multiple Species Conservation Program**

Under this alternative, an NCCP or other comprehensive multiple species conservation program would be prepared and implemented for the plan area instead of the HCP for the four listed species. This approach was considered at several stages in the planning process, and a preliminary draft of a multiple species HCP was prepared while the Wash Plan was being completed. The decision to focus on the four listed species was a matter of expediting implementation of the Wash Plan rather than a rejection of a multiple species conservation strategy. Nothing in the HCP for the four species precludes a multiple species program for the Wash. Further, implementation of the HCP will be coordinated with the Wash Plan HEP and the USACE's proposed MHMP for the WSPA.

## 1.1 Purpose

This Habitat Conservation Plan (HCP) is part of the permit application submitted by the San Bernardino Valley Water Conservation District (SBVWCD) to the U.S. Fish and Wildlife Service (USFWS) on behalf of the parties implementing the Upper Santa River Wash Land Management Plan (Wash Plan). USFWS is being asked to authorize incidental take of four federally listed species:

- San Bernardino kangaroo rat (*Dipodomys merriami parvus*, SBKR),
- California gnatcatcher (*Polioptila californica californica*, Gnatcatcher),
- Santa Ana River woollystar (*Eriastrum densifolium* ssp. *sanctorum*, Woollystar), and
- Slender-horned spineflower (*Dodecahema leptoceras*, Spineflower).

Woollystar and Spineflower are State as well as federally listed species, and the SBVWCD also is seeking State authorization for take of those species from the California Department of Fish and Game (CDFG).

The primary purpose of this HCP is to:

1. Provide for the conservation of populations of the four species and their habitat within the Wash Plan area as mitigation for the effects of incidental take;
2. Fulfill the requirements for an incidental take permit (ITP) as specified in section 10(a)(1)(B) of the federal Endangered Species Act (FESA), FESA implementing regulations (50 CFR 17.22[b][2][i]), the 1996 Habitat Conservation Planning Handbook (HCP Handbook), and the 2000 Addendum to the HCP Handbook; and
3. Support the SBVWCD's request to CDFG for a "consistency determination" pursuant to section 2080.1 of the California Endangered Species Act (CESA).

In addition, the HCP will be used to:

- Support a FESA section 7 consultation between USFWS and U.S. Bureau of Land Management (BLM) regarding incidental take on federal lands in connection with activities covered by the Wash Plan HCP (see "1.3.2 Regulatory Framework"); and
- Fulfill the requirements specified in the Wash Plan and its certified Environmental Impact Report (EIR) regarding compliance with FESA and CESA and the identification of measures to avoid, minimize, mitigate, and monitor effects on these four species (see "1.3.1 Wash Plan Overview").

## 1.2 Scope

This section identifies the parties, area, species, and activities covered by the HCP and incidental take authorizations. It also identifies the term of the ITP.

### 1.2.1 Covered Parties

The following parties will be covered by the incidental take authorizations from USFWS and CDFG:

1. SBVWCD
2. City of Redlands (including the Redlands Municipal Utility District)
3. City of Highland
4. San Bernardino County Flood Control District (SBCFCD)
5. Cemex Inc. (Cemex)
6. Robertson's Ready-mix (Robertson's)

The authorizations may be extended to other parties, subject to the amendment process described in chapter 5 and the HCP Implementation Agreement (IA).

### 1.2.2 Plan Area

The area covered by the HCP (plan area) is located in southwestern San Bernardino County, California, approximately one mile downstream of the Seven Oaks Dam (Figure 1). The plan area encompasses approximately 4,467 acres, extending approximately six miles westward from Greenspot Road in the City of Highland to Alabama Street in the City of Redlands. The HCP and the Wash Plan cover the same area.

For planning and implementation purposes, the plan area is divided into eight subcomponents (Figure 2):

- Santa Ana River Woollystar Preserve Area (WSPA) – an existing preserve established as mitigation for the effects of the Seven Oaks Dam on Woollystar.
- Newly Conserved Lands – lands that will be permanently conserved for the four species under the HCP. These areas include lands owned by SBVWCD and City of Redlands, lands transferred from BLM to SBVWCD, and lands transferred from Robertson's to SBCFCD.
- Additionally Managed Lands – lands for which the HCP will provide additional management and monitoring for the benefit of the four species. These areas include lands managed by BLM (including SBVWCD lands transferred to BLM) and lands outside of WSPA that were dedicated as mitigation lands prior to approval of the Wash Plan.
- Mining Impact Area – the area in which mining operations by Robertson's and Cemex will continue and expand as delineated in the Wash Plan, its certified EIR, and the Environmental Impact Statement (EIS) for the land exchange between SBVWCD and BLM.

**Figure 1. Regional Context and Plan Area Boundaries**

**Figure 2. Plan Area Subcomponents**

- Road Impact Area – the area affected by proposed improvements to Alabama Street, Orange Street/Boulder Avenue, and Greenspot Road, as described in the Wash Plan and its certified EIR.
- Other SBVWCD Lands – other SBVWCD-owned lands in the plan area where SBVWCD conducts operation and maintenance (O&M) activities and will establish new water conservation facilities. (SBVWCD also will establish new water conservation facilities in a designated area on lands in the Additionally Managed subcomponent.)
- Other Flood Control Lands – other SBCFCD-lands in the plan area where SBCFCD conducts O&M activities.
- Other Lands – lands within the Caltrans right-of-way along State Route 30 and other lands in unspecified public ownership.

### 1.2.3 Covered Species

The species covered by the HCP and the FESA incidental take authorization are SBKR, Gnatcatcher, Woollystar, and Spineflower. Federal authorization for incidental take of other species may be sought through the amendment process and in accordance with FESA sections 10(a) and 7.

The species covered by the State incidental take authorization are Woollystar and Spineflower. State authorization for incidental take of other species may be sought through the amendment process and in accordance with the applicable provisions of the California Fish and Game Code.

### 1.2.4 Covered Activities

The activities covered by the HCP and take authorizations (covered activities) are listed in Table 1-1.

Activities not covered by the HCP and the incidental take authorizations include:

1. Take in connection with an activity that is not in compliance with applicable federal, state, and local laws and regulations;
2. Collection and handling of the covered species (or any other listed species). Separate authorization from USFWS and CDFG as appropriate is required for collection and handling;
3. Take of a federally listed species not identified in the HCP and federal authorizations for take, except as provided through the amendment process;
4. Take of a State listed species or candidate for State listing not identified in the HCP and 2080.1 consistency determination, except as provided through the amendment process; and
5. Take of a covered species, species proposed for federal listing, State listed species, or State candidate species as a result of the use herbicides, pesticides, or other chemical agents.

### 1.2.5 Term of the ITP

The SBVWCD is seeking a 50-year ITP.

**Table 1-1. Activities Covered by the Wash Plan HCP and Incidental Take Authorizations**

<b>Covered Party/Activity</b>	<b>Description</b>
<b>SBVWCD</b>	
Existing and Future O&M	
Water Recharge	Diverting native Santa Ana River water and conveying the water by way of canals and similar facilities to groundwater spreading basins made of earthen dikes. Periodic maintenance to assure efficient recharge percolation rates.
Culverts	Clearing encroaching vegetation, filling ruts and potholes, grading, resurfacing (with gravel or compacted soil), and repairing washouts. Vegetation control usually occurs annually and other activities occur every 2-3 years.
Canals	Clearing encroaching vegetation, removing sedimentation, and repairing washouts or erosion. Washout and erosion repair is typically accomplished by filling in the eroded area with native material and sometimes grouted rock. Vegetation control usually occurs annually and other activities occur infrequently.
Access Roads	Clearing encroaching vegetation, clearing of debris or sediment in the nearby canal, and repairing damage to the nearby canal or the culvert itself. Repairing the culvert itself typically requires excavation of the roadway. Vegetation control usually occurs annually, sediment removal every 2-3 years, and the remaining activities infrequently.
Dikes	Occasional excavation and compaction of the dike material at the source of leaks, similar work to replace broken overflow culverts, and repair of washouts. Such repairs occur infrequently.
Basins	Clearing encroaching vegetation and removal of sediment. Vegetation control usually occurs annually. Sediment removal occurs every 1-5 years depending on the basin, storm intensity, and other variables. Removed sediment is used for dike, canal, and access road maintenance or exported offsite.
Diversion Structures	Clearing encroaching vegetation and debris or sediment from the nearby canal, repair of the nearby canal, and repair of damage to the structure itself. Vegetation control usually occurs annually, sediment removal every 2-3 years, and the remaining activities infrequently.
New Facilities	Phased construction of new water spreading or conservation facilities and new water recharge facilities (dikes, canals, culverts, basins, diversion structures), including required access roads, within areas designated in the Wash Plan for water conservation and joint habitat/water conservation. Habitat impacts from new facilities will be limited to 31% of total acreage in each of three phases. Phase 3 will occur on BLM lands that were part of the land exchanges under the Wash Plan and are identified as Additionally Managed under the HCP.
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures on Newly Conserved, Additionally Managed, and Other SBVWCD Lands.
<b>SBCFCD</b>	
Existing and Future O&M on the Sections of the Santa Ana River, Mill Creek, Plunge Creek, and City Creek within the Plan Area	Weed control (with the use of herbicides, scrapers, dozers, and/or loaders). Levee repair along toe and top of the levee utilizing placement of fill material, stone, etc. Erosion repair and/or sediment removal along toe of the levee, access roads, etc. Rebuilding storm-damaged facilities as routine or during an emergency. Protection of public or private facilities. Maintaining security structures such as gates, barriers, or fencing. Installation of drains, piping, or utilities crossing flood control facilities. Low-flow channel work.



<b>Covered Party/Activity</b>	<b>Description</b>
New Construction	No new facilities are proposed.
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures on Other Flood Control Lands.
<b>City of Highland</b>	
Road Improvements	
Greenspot Road	Realignment and widening of Greenspot Road and replacement of Greenspot bridge. Preparation and use of temporary staging areas
Orange St/Boulder Ave	Improvements within a 135 foot right-of-way, including curb separation, curb, gutter, sidewalk, and graded shoulder.
Trails	Class 3 and 4 trails, as identified in the Wash Plan, including trail segments on BLM lands. Installation of signage. Vegetation control and surface maintenance. Erosion control and repairs.
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures on the Highland Mitigation Lands in the plan area
<b>City of Redlands</b>	
Road Improvements	
Alabama Street	Widening of Alabama Street from the northern limits of the Alabama St/Santa Ana River bridge to the northern Redlands City limits. Preparation and use of a temporary staging area.
Orange St/Boulder Ave	Widening of Orange Street south of the Orange Street Bridge for about 1,000 feet. Preparation and use of a temporary staging area.
Trails	Class 3 and 4 trails, as identified in the Wash Plan, including trail segments on BLM lands. Installation of signage. Vegetation control and surface maintenance. Erosion control and repairs.
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures on Newly Conserved Lands dedicated by City.
<b>Cemex</b>	
Alabama Street Quarry	Aggregate mining on 51 acres in the existing Alabama Northwest Pit. Mining of sand and gravel from the site. Operation of the existing ready-mix concrete batch plant and asphalt plant. Use of the existing maintenance facilities. Use and maintenance of haul roads. Maintenance of setbacks from Alabama Street. Reclamation of finished slopes as portions of the quarry reach final grade.
West Quarry	Aggregate mining within a 176-acre quarry site (includes an existing pit) Use and maintenance of haul roads. Maintenance of the setback from the Caltrans ROW. Reclamation of finished slopes as portions of the quarry reach final grade.
East Quarry North	Aggregate mining within a 420-acre quarry site (includes previously mined areas). Operation and maintenance of the Orange Street processing plants, silt ponds, and aggregate storage facilities. Reconfiguration of the Orange Street processing plant. Relocation of processing plant facilities to east side of site.

Covered Party/Activity	Description
	Use and maintenance of haul roads. Maintenance of the setback from Orange Street/Boulder Avenue ROW. Reclamation of finished slopes as portions of the quarry reach final grade.
5 <sup>th</sup> Street Access Road	Construction, use, and maintenance of new access road along the existing City Creek levee located on the east side of City Creek between 5 <sup>th</sup> Street and the east-west boundary of the plan area. (Road to be used by Cemex and Robertson's.)
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures within Cemex's portions of the Mining Area.
<b>Robertson's</b>	
Plunge Creek Quarry	Aggregate mining within a 30-acre quarry site. Use and maintenance of existing haul roads. Reclamation of the site to allow drainage into Plunge Creek, through final contouring, ripping compacted areas, covering slopes with available salvaged topsoil, and revegetation of the slopes and berm on the south side of the quarry.
Silt Pond Quarry	Aggregate mining within a 98-acre quarry site. Use and maintenance of haul roads. Maintenance of the setback from the Orange Street/Boulder Avenue ROW. Reclamation during mining by maintaining stable slopes. (The completed quarry would be used to deposit the silt-laden water from the Robertson's and Cemex processing plants.)
East Quarry South	Aggregate mining within a 291-acre quarry site (includes previously mined areas). Use and maintenance of haul roads. Reclamation on upper slopes during mining by contouring slopes; final reclamation of the lower slopes at the end of mining. (End use is groundwater storage or recharge basin or recreation.)
5 <sup>th</sup> Street Access Road	Construction, use, and maintenance of new access road along the existing City Creek levee located on the east side of City Creek between 5 <sup>th</sup> Street and the east-west boundary of the plan area. (Road to be used by Cemex as well as Robertson's.)
HCP Implementation	Implementation of habitat management measures for the covered species, vegetation/fire management measures, signage, property management, and access control measures within Robertson's portions of the Mining Area.

## 1.3 Context

This section provides an overview of the Wash Plan and the regulatory framework of the HCP.

### 1.3.1 Wash Plan Overview

#### History

In 1993, representatives of water, mining, flood control, wildlife, and municipalities formed the Wash Committee to address local mining issues in the Upper Santa Ana River Wash.

Subsequently, the role of the committee was expanded to address all the land functions in the Wash. The committee met on an as-needed basis with other stakeholders in the wash area, including representatives from the mining companies.

In 1997, the Wash Committee began meeting on a regular basis to determine how to accommodate all of the important functions within the Wash. A Policy Action Committee (PAC)

was established consisting of elected officials from the County, Cities of Highland and Redlands, the SBVWCD, and the Field Manager from BLM. A Technical Advisory Committee (TAC) was formed with representatives of the PAC agencies and other water, mining, flood control, and wildlife interests. The SBVWCD chaired and provided staff support for the Committees.

The TAC consciously ignored land ownership lines and began anew to decide how the land could best be used. As a result of extensive workshops during 1998 and 1999, a general consensus of the TAC was reached in early 2000 on the areas within the Wash designated for the specified land uses, which is the basis of the Wash Plan. As expected, this proposed plan for land use conformed neither to previously planned land use nor to current land ownership. For example, the TAC found that some land previously proposed for mining had high habitat value and could be used for conservation, while other land previously proposed for habitat had little value for that purpose and could be used for mining. It became apparent that to make a plan work, land ownership and expected land use would both have to change.

The proposed designations for land use cross both land ownership (3 public entities and 2 private parties) and land use jurisdiction lines (2 cities and the County). The TAC determined that planned mining expansion would be best addressed by consolidating future mining activity into one area adjacent to existing mining operations within the western half of the plan area. This focuses extraction activities on lands currently in or near mining disturbance – lands with the least long-term wildlife habitat value. In addition, the TAC determined that portions of the BLM land designated as Areas of Critical Environmental Concern (ACEC) were previously disturbed or fragmented by adjacent mining activities, and thus would be better suited for mining expansion. Some of the most intact, viable wildlife habitat areas are contained within lands leased for future mining and currently used for water conservation. The TAC concluded that some of these lands were best suited for joint use as water and habitat conservation rather than mining.

A general consensus on the location of specified land uses within the Planning Area was reached by the TAC in early 2000. In order to create the framework for joint funding and governance from all participants, for the proposed land management plan, the Task Force was formed. Membership in the Task Force includes the County of San Bernardino, the Cities of Highland and Redlands, the SBVWCD, BLM, Cemex, Robertson's, SBCFCD, East Valley Water SBVWCD (EVWD), and RMUD. In recognition of the important roles they play in this process, USFWS, CDFG, U.S. Army Corps of Engineers (USACE), California Department of Water Resources, County of Orange, and Inland Valley Development Agency are advisory members to the Task Force. The SBVWCD operates as project manager and staff support for this body.

The Wash Plan was adopted by the SBVWCD as lead agency in late 2008, following public review of the plan, preparation, and circulation of an Environmental Impact Report (EIR), and certification of the EIR.

## **Wash Plan Goals and Objectives**

As described in detail in the Wash Plan adopted in 2008 (SBVWCD 2008), the primary goal is to balance the ground-disturbing activities of water conservation, aggregate mining, recreational activities, and other public services in the Wash with the conservation of natural communities and populations of special status plants and wildlife. Specific objectives are to:

- Ensure the continued ability of the SBVWCD to replenish the Bunker Hill Groundwater Basin with native Santa Ana River water using existing and potential future water recharge facilities;
- Ensure the continued ability of the SBCFCD to protect land and property by managing the floodwaters of the Santa Ana River and its local tributaries (Mill Creek, Plunge Creek, and City Creek);
- Set aside and maintain habitat for sensitive, threatened, or endangered species and prevent colonization by non-native plants and animals, as mitigation for impacts from future land uses in the Wash;
- Accommodate the relocation and expansion of aggregate mining quarries to help ensure long-term availability of high quality aggregate reserves for local and regional use, consistent with the Mineral Resource Zone 2 designation for reserves in this area, and do so on land adjacent to existing quarries that have mostly been disturbed;
- Accommodate arterial roads and highways to provide safe modes of travel; and
- Provide trails for public enjoyment of the existing environment.

To achieve these objectives, the Wash Plan calls for a combination of land exchanges, compatible joint uses of lands, land use restrictions, habitat conservation strategies, and impact mitigation measures. Figure 3 shows land ownership and land uses as proposed in the Wash Plan (post-exchanges between BLM and the SBVWCD and between Robertson's and SBCFCD).

## Implementation Status

Key implementing actions to date include:

- Adoption of the Wash Plan by the SBVWCD;
- The land exchange between the SBCFCD and Robertson's Ready Mix (Robertson's),
- The land exchange between BLM and SBVWCD and amendment of the BLM's South Coast Resource Management Plan (SCRMP), following analysis of these actions in an Environmental Impact Statement (EIS) on the exchange and amendment;
- Preparation of a Habitat Enhancement Plan (HEP) for the protection and management of multiple habitats and species in the Wash, as indicated in the Mitigation Monitoring and Reporting Plan (MMRP) for the Wash Plan EIR; and
- Preparation of the Wash Plan HCP.

### 1.3.2 Regulatory Framework

The following federal and state regulations are relevant to the approval and implementation of the HCP and to approval of the incidental take authorizations.

**Figure 3. Land Ownership within the Plan Area (Post-Land Exchange)**

**Figure 4. Land Uses under the Wash Plan**

## Federal

### Endangered Species Act (FESA) (16 USC 153 *et seq.*)

#### Section 9

Section 9 prohibits the taking of endangered species, except as provided under Sections 4, 7, and 10. “Taking” means “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.” Section 9 also prohibits the “removal or reduction to possession” of a listed plant species “under federal jurisdiction” (i.e., on federal land, where federal funding is provided, or where federal authorization is required).

*Harm* is defined as “an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.” (50 CFR 17.3). *Harass* is defined as “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering” (50 CFR 17.3).

#### Section 7

Section 7 requires federal agencies to ensure that their activities will not likely jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated or proposed critical habitat and to confer and consult with USFWS and National Marine Fisheries Service (NMFS). USFWS or NMFS must prepare a written Biological Opinion (BO) describing how the agency’s action will affect the listed species and its critical habitat. If the proposed action would jeopardize the continued existence of a listed species or adversely modify its critical habitat, the BO must suggest “reasonable and prudent alternatives” that would avoid that result. As part of the consultation process, USFWS and NMFS Fisheries may authorize take of listed species.

For the Wash Plan HCP, USFWS will conduct an internal section 7 consultation and prepare a biological opinion. Where covered activities would occur on BLM lands (i.e., Phase 3 of the SBVWCD’s water conservation projects, trail segments, and certain SBKR management measures), a section 7 consultation between BLM and USFWS also would occur. In those subsequent consultations, the measures to avoid, minimize, mitigate, and monitor effects on the four covered species would be the measures in the approved HCP.

#### Section 10

Section 10(a) allows USFWS and NMFS to authorize take of a listed species that is incidental to otherwise lawful activities. Approval criteria are specified in FESA and federal regulations. Further guidance is provided in the HCP Handbook and 2000 Addendum.

Before an incidental take permit (ITP) can be issued, the applicant must prepare and submit for approval an HCP containing the elements identified in Section 10(a)(2)(A) as augmented by the Handbook and Addendum. These elements are:

1. Area, time-frame, species, and activities covered by the plan and permit;
2. An estimate of the incidental take and associated impacts;
3. A conservation plan (with all of the items below);
  - a. Biological goals and objectives
  - b. Measures to avoid, minimize, mitigate, and monitor take and its effects
  - c. Implementation and effectiveness monitoring
  - d. Adaptive management provisions
  - e. Measures for changed and unforeseen circumstances
  - f. Provisions for amending the plan and permit
  - g. Funding provisions and assurances
  - h. Implementation assurances
  - i. Alternatives to the taking of listed species and the reasons why not selected.

To issue the ITP, USFWS or NMFS must find that:

1. All taking of federally listed fish and wildlife species must be incidental to otherwise lawful activities.
2. The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking.
3. The applicant will ensure that adequate funding for the HCP and procedures to deal with changed circumstances, including adequate funding to address such changes will be provided.
4. The taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild.
5. The applicant will ensure that other measures that USFWS may require will be provided.

USFWS and NMFS may choose to issue the ITP conditioned on implementation of the HCP, issue the ITP conditioned on implementation of the HCP and other measures specified by the agency, or deny the ITP.

### **Migratory Bird Treaty Act (MBTA)**

The MBTA of 1918 (16 U.S. Code 703-711) implements an international treaty for the conservation and management of bird species that may migrate through more than one country. Enforced in the U.S. by the USFWS, the MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed in 50 CFR Part 10, including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations (50 CFR 21). Disturbance that causes nest abandonment and/or loss of reproductive effort (e.g., killing or abandonment of eggs or young) may be considered a “take” and is potentially punishable by



finer and/or imprisonment. In 1972, the MBTA was amended to include protection for migratory birds of prey (raptors). Generally, applicants who obtain an ESA Section 10(a) permit simultaneously receive a three-year MBTA permit for ESA-listed migratory birds.

### **National Environmental Policy Act (NEPA)**

NEPA requires federal agencies to include in their decision-making process appropriate and careful consideration of all effects (direct, indirect, and cumulative) on the human environment of a proposed action and of possible alternatives. Documentation of the environmental impact analysis and efforts to avoid or minimize the adverse effects of proposed actions must be made available for public notice and review. This analysis is documented in either an environmental assessment (EA) or an environmental impact statement (EIS). Project proponents must disclose in these documents whether their proposed action will adversely affect the human or natural environment.

### **State**

#### **California Endangered Species Act (CESA)**

CESA is part of the California Fish and Game Code (Section 2050 *et seq.*) and is administered by the CDFG as the trustee for fish and wildlife resources in the State of California. CESA authorizes the California Fish and Game Commission to establish a list of endangered and threatened species.

#### **Section 2080**

Sections 2080 *et seq.* prohibit the take of state-listed and state candidate species, except as provided under Sections 2080, 2080.1, 2081, 2835, and the Native Plant Protection Act.

#### **Section 2080.1**

Section 2080.1 states the requirements and procedures for CDFG to determine that the federal authorization for incidental take of species that are State as well as federally listed is consistent with CESA. The exception provided in section 2080.1 to CESA's take prohibition can be used only for species that are listed under both FESA and CESA and cannot be applied to species that are listed by the State but not federally listed.

To initiate a consistency determination, an applicant who has obtained a federal incidental take statement pursuant to a federal Section 7 consultation or a federal Section 10(a) ITP must notify the CDFG Director in writing and submit the federal opinion incidental take statement or ITP for review. Receipt of the application by the Director starts a 30-day clock for processing the consistency determination.

To issue a consistency determination, CDFG must determine that the conditions specified in the federal incidental take statement or the federal ITP are consistent with CESA. If the Department determines that the federal statement/permit is not consistent with CESA, the applicant must apply for a State ITP under CESA section 2081(b).

At the regional office, CDFG responsibilities include: timely review of the application for a consistency determination (federal incidental take statement/biological opinion or federal incidental take permit) to determine if they are consistent or inconsistent with CESA; preparation of the consistency determination for the Director's signature; preparation of a letter to the applicant indicating whether the determination is consistent or inconsistent; and preparation of the transmittal letter to the Director indicating the region's conclusions. Regional management must notify the Director at least five days prior to the end of the 30-day determination period of the intent to recommend an inconsistency determination. It must also explain to the applicant why the inconsistency is being recommended and allow the applicant to withdraw the 2080.1 request.

At headquarters in Sacramento, CDFG responsibilities include: receipt of application for consistency determination sent to the Director and assigning a CESA Tracking Number; preparation and filing of a Notice of Public Interest with the Office of Administrative Law; and sending the application to the region for further processing. Following regional submittal of the completed consistency or inconsistency determination, headquarters will review the documents for completeness, policy direction, and consistency with permitting standards.

### **Section 2081**

Section 2081(b) of CESA authorizes the CDFG to allow, by permit, the take of an endangered, threatened or candidate species. Such a "Section 2081 permit" may be issued only if the following permit issuance criteria are met:

1. The take is incidental to an otherwise lawful activity.
2. The impacts of the authorized take shall be minimized and fully mitigated. The measures required to meet this obligation shall be roughly proportional in extent to the impact of the authorized taking on the species. Where various measures are available to meet this obligation, the measures required shall maintain the applicant's objectives to the greatest extent practicable. All required measures shall be capable of successful implementation. For purposes of this section only, impacts of taking include all impacts on the species that result from an act that would cause the proposed taking.
3. The permit is consistent with regulations adopted pursuant to Sections 2112 and 2114.
4. The applicant shall ensure adequate funding to implement the measures required by paragraph (2), and for monitoring compliance with, and effectiveness of, those measures.  
[CESA Section 2081(b)]

CESA further requires that no permit may be issued if issuance of the permit would jeopardize the continued existence of the species, a determination that CDFG must make based on the best scientific and other information that is reasonably available. This must include consideration of the species' capability to survive and reproduce in light of known population trends, known threats to the species, and reasonably foreseeable impacts on the species from other related projects and activities.

## **Other Relevant Sections of the California Fish and Game Code**

### ***Fully Protected Species***

Fully protected species are described in Sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) of the Fish and Game Code. These protections state that “...no provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected [bird], [mammal], [reptile or amphibian], [fish].”

### ***Sections 3503 (Nests) and 3503.4 (Birds of Prey)***

Section 3503 of the Fish and Game Code makes it unlawful to take, possess, or needlessly destroy the nests or eggs of any bird. CDFG may issue permits authorizing take. Section 3503.5 prohibits the take, possession, or destruction of any birds of prey or their nests or eggs. CDFG may issue permits authorizing take pursuant to CESA or the Natural Community Conservation Planning Act (NCCPA).

### ***Native Plant Protection Act (Sections 1900–1913)***

The Native Plant Protection Act prohibits taking of endangered and rare plants from the wild and requires that CDFG be notified at least 10 days in advance of certain specified changes in land use that would adversely impact listed plants.

### **California Environmental Quality Act (CEQA)**

CEQA is similar to but more extensive than NEPA in that it requires that significant environmental impacts of proposed projects be reduced to a less-than-significant level through adoption of feasible avoidance, minimization, or mitigation measures unless overriding considerations are identified and documented. CDFG’s action on a 2080.1 consistency determination is not subject to CEQA, but the documentation prepared for the local agency’s action will be considered by CDFG.

The information about the plan area in this section is drawn primarily from the biological technical reports prepared by URS, LSA, and Dudek in connection with preparation of the Wash Plan, the Wash Plan EIR, and the EIS for the BLM land exchange and SCRMP amendment.

## 2.1 Physical Characteristics

### 2.1.1 Geology and Soils

The project site is located in the broad fluvial plain formed by the deposition of the Santa Ana River, Mill Creek, and City Creek as they flow southwest from the San Bernardino Mountains. Several fault bounded structural blocks saddle the general site area. The down dropped San Bernardino Valley block underlies the site and represents a buried rift between the San Andreas Fault to the northeast, and the San Jacinto Fault to the southwest. As the block subsided, alluvium derived from the San Bernardino Mountains filled the resulting depression, causing a maximum alluvial thickness of 600 to 1,200 feet east of the San Bernardino International Airport. It is this alluvium that is mined throughout the Wash Plan. The alluvial deposit is of the Quaternary Age and consists of igneous and metamorphic clasts whose rocks are found in the mountains and at Crafton Hills. The clasts' sizes vary from that of fine size to boulders in size. All materials on the project site are classified in the Soboba Series, specifically Soboba Stony loamy sand.

The site is subject to ground shaking from earthquakes but is not located within an Alquist-Priolo special studies zone. The area is gently sloping (3-6% slope) and is not subject to landslide hazards. Depth to ground water fluctuates with season and groundwater recharge activities. The area is subject to liquefaction though this is not considered hazardous for mining, reclamation, recharge, and flood control activities.

The Santa Ana River extends the length of the plan area; two tributaries to the Santa Ana River also occur within the plan area, Plunge Creek in the north and Mill Creek in the southeast. Soils within the plan area are mapped as Soboba stony loamy sand, 2 to 9% slopes, Psamments and Fluvents, frequently flooded, and Hanford coarse sandy loam, 2 to 9% slopes. Soils in and along the channels of the Mill Creek, the Santa Ana River, Plunge Creek, and an old channel between Plunge Creek and the Santa Ana River (roughly 15% of the plan area) are mapped as Fluvents and Psamments. These are recent soils with little or no evidence of horizon development. Fluvents are formed by recent water-deposited sediments in floodplains, fans, and stream or river deltas and consist of layers of various soil textures. Psamments formed on terraces or outwash plains and contain well sorted, freely draining soils that always contain sand, fine sand, loamy sand or coarse sand in subsoils between 10 and 40 inches depth.

Most of the plan area consists of Soboba stony loamy sand. This soil forms on alluvial fans in granitic alluvium and typically contains stony loamy sand, very stony loamy sand, and very stony sand to a depth of approximately 60 inches. Included within this soil are areas of Tujunga

gravelly loamy sand. A small area of Hanford coarse sandy loam occurs in the northeastern part of the plan area. This is a well-drained soil formed in recent granitic alluvium on valley floors and alluvial fans that contains sandy loam to a depth of about 60 inches.

### **2.1.2 Climate**

The San Bernardino Valley is characterized by a climate of long dry summers and short wet winters, commonly referred to as a Mediterranean climate. Annual average daily temperatures range from a low of 49° F. to an average high of 80° F. The average rainfall is about 15.6" per year, with approximately 90 percent falling from November through March.

### **2.1.3 Groundwater**

The project site overlies the Bunker Hill Ground Water Basin. The Bunker Hill Basin is one of the largest ground water basins in the Santa Ana River Basin and is a ground water recharge zone. This basin, whose boundaries are generally defined by earthquake faults, which effectively act as subsurface dams trapping ground water, is bounded on the north and east by the San Bernardino Mountains, on the southeast by the Crafton Hills and the Badlands, and on the west by the San Jacinto fault. Because faults can act as barriers to the movement of ground water, the faults in the vicinity of the SBVWCD Mill Creek recharge facilities may restrict the movement of water into the larger Bunker Hill basin. Three subareas within the Bunker Hill Basin have been identified. These are commonly referred to as Bunker Hill I, Bunker Hill II, and the Pressure Zone. The project site overlies the Bunker Hill II subarea. The Pressure Zone to the west is an area where high ground water levels have historically existed.

Many natural and artificial phenomena such as rainfall, natural stream inflow, evaporation, ground water extractions through wells, and spreading operations for replenishment of the water supply influence ground water levels in the Bunker Hill Basin. The Bunker Hill Basin is artificially recharged by several agencies. Included are surface stream diversions made for ground water replenishment by the SBVWCD on the Santa Ana River and Mill Creek, and facilities operated by the SBCFCD on Devil Creek, Twin Creek, Waterman Creek, and Sand Creek, which may also be used for ground water recharge. The SBVWCD and its predecessors have been diverting water from the Santa Ana River and Mill Creek for over 90 years.

## **2.2 Existing Uses**

Existing land uses in the plan area consist of aggregate mining operations, ground water recharge basins, flood control facilities, and utility easements. Aggregate mining is conducted in the western half of the plan area. The SBVWCD maintains water spreading basins in the eastern section. The SBCFCD maintains flood control facilities along the Santa Ana River, Plunge Creek, and City Creek. The WSPA extends in segments along the southern tier of the plan area, with one segment on the northern edge and another outside the plan area to the west. The Metropolitan Water District of Southern California (MWD) has a utility easement within the general boundaries of the plan area. Inland Fish and Game Club maintains a shooting range operated on approximately 20 acres of land in the northern part of the plan area on BLM land. Other land uses include roadways and utility easements.

## 2.3 Vegetation and Land Covers

Seven vegetation and land covers have been mapped onsite: variations of Riversidean alluvial fan sage scrub, Riversidean sage scrub, chamise chaparral, non-native grassland, disturbed habitat, recharge basins, and developed land (Figure 5). Table 2-1 indicates the estimated acres per vegetation type in the plan area subcomponents.

### 2.3.1 Chamise Chaparral

Chamise chaparral occurs throughout much of the range of chaparral in California from approximately 30 to 6000 feet in elevation. This vegetation is found on all slope-aspects generally on shallow soils and is dominated by chamise. Vegetation structure is open to dense from approximately 3 to 13 feet in height, with little litter and few understory species in mature stands. Onsite this vegetation type is dominated by chamise but also includes yerba santa, California buckwheat, sugar bush, our Lord's candle with an understory of non-native brome grasses and gracile buckwheat.

### 2.3.2 Non-native Grassland

Disturbance by maintenance (e.g., mowing, scraping, discing, spraying, etc.), grazing, repetitive fire, agriculture, or other mechanical disruption may alter soils and remove native seed sources from areas formerly supporting native habitat. Within the plan area, non-native grassland consists of a sparse to dense cover of annual grasses as well as native and non-native annual forb species. Physical characteristics include clay soils or fine-textured loamy soils.

### 2.3.3 Riversidean Sage Scrub

Riversidean sage scrub is dominated by a characteristic suite of low-statured, aromatic, drought-deciduous shrubs and subshrub species. It is a more xeric expression of coastal sage scrub, occurring further inland in drier areas where moisture and climate are not moderated by proximity to the marine environment. Riversidean sage scrub typically occurs on steep slopes, severely drained soils or clays that are slow to release stored soil moisture (Holland 1986).

Species composition varies substantially depending on physical circumstances and the successional status of the habitat; however, characteristic species include California sagebrush, buckwheat, laurel sumac, California encelia, and several species of sage (Holland 1986). Other common species include brittlebush, lemonadeberry, sugarbush, yellow bush penstemon, Mexican elderberry, sweetbush, boxthorn, coastal prickly-pear, coastal cholla, tall prickly-pear, and species of dudleya.

Onsite, Riversidean sage scrub includes brittlebush, deerweed, spiny redberry, California sagebrush, California buckwheat, white sage, and laurel sumac. Physical characteristics include gravely, sandy and/or silty soil with few cobbles.

**Figure 5. Vegetation Communities and Land Cover Types in the Plan Area**

**Table 2-1. Vegetation and Land Cover Types in the Plan Area (acres)**

<b>Vegetation Communities/Land Cover Type</b>	<b>Developed</b>	<b>Mining Impact Area</b>	<b>Road Impact Area</b>	<b>Newly Conserved</b>	<b>Additionally Managed</b>	<b>Other SBWCD Lands</b>	<b>Other Flood Control Lands</b>	<b>Other Public Lands</b>	<b>Highland Mitigation Lands</b>	<b>WSPA</b>	<b>TOTAL</b>
Chamise Chaparral	0.00	0.00	0.00	78.23	0.00	29.95	0	0.00	0.00	0.00	108.18
Chamise Chaparral/ Non-Native Grassland	0.00	0.00	0.73	0.00	0.00	63.82	0	0.00	0.00	0.00	64.55
Non-Native Grassland	0.01	8.62	0.31	5.86	24.78	21.09	9.65	2.71	0.00	1.13	74.16
Riversidean Alluvial Fan Sage Scrub – Pioneer	0.00	0.00	1.15	120.35	31.30	7.88	148.31	5.51	0.00	79.62	394.12
Riversidean Alluvial Fan Sage Scrub – Intermediate	0.03	152.21	4.85	197.57	219.13	89.85	161.14	18.92	5.65	178.25	1027.6
Riversidean Alluvial Fan Sage Scrub – Intermediate/Mature	0.00	274.34	8.19	156.74	259.24	108.35	36.69	0.00	6.15	178.02	1027.72
Riversidean Alluvial Fan Sage Scrub – Mature	0.00	6.25	1.56	143.40	68.03	78.55	10.45	0.00	0.00	94.52	402.76
Riversidean Alluvial Fan Sage Scrub – Mature/NNG	0.00	0.00	0.00	27.95	0.00	8.27	0	0.00	2.30	0.00	38.52
Riversidean Upland Sage Scrub	0.00	7.73	0.03	0.00	0.00	0	0	0.00	0.00	0.00	7.76
Recharge Basin	0.00	0.00	0.00	0.00	0.00	49.47	0	0.00	0.00	0.00	49.47
Developed /Ruderal	29.63	746.84	5.42	61.54	7.03	344.19	9.97	44.26	1.44	13.22	1263.54
Total	29.67	1195.99	22.24	802.28	618.32	801.42	376.21	71.4	15.54	544.76	4467.24



### 2.3.4 Riversidean Alluvial Fan Sage Scrub

Riversidean alluvial fan sage scrub is a shrubland type that occurs in washes and on gently sloping alluvial fans. Alluvial scrub is made up predominantly of drought-deciduous soft-leaved shrubs, but with significant cover of larger perennial species typically found in chaparral (Kirkpatrick and Hutchinson 1977). Scalebroom generally is regarded as an indicator of Riversidean alluvial scrub (Smith 1980; Hanes et al. 1989). In addition to scalebroom, alluvial scrub typically is composed of white sage, spiny-leaved redberry, buckwheat, our Lord's candle, California croton, cholla, tarragon, yerba santa, mulefat, and mountain-mahogany (Hanes et al. 1989; Smith 1980).

Riversidean alluvial fan sage scrub occurs on alluvial benches throughout the plan area, in various stages of succession. The three stages of succession generally represent the differences in species composition, growth forms (i.e., woodiness of plants) and percent cover. More mature areas tend to have woodier vegetation, higher percent cover, and greater diversity than younger areas.

Areas mapped as mature Riversidean sage scrub are typically those areas most distant from human disturbances (e.g., recharge basins, roads, mining pits, etc.) and the main flows of the Santa Ana River, Plunge Creek, and Mill Creek. The vegetation consists of woody shrubs and fully developed subshrubs and physical characteristics include fine silty soils with few cobbles. Typical species include California juniper, chamise, our Lord's candle, sugarbush, spiny redberry, holly-leaved redberry, hoaryleaf ceanothus, and sugarbush.

Areas mapped as intermediate Riversidean sage scrub typically lie between mature and pioneer Riversidean sage scrub. The vegetation is fairly dense and consists primarily of subshrubs. Physical characteristics include coarse and fine sands with cobbles. Typical species include California buckwheat, prickly pear cactus, deerweed, yerba santa, and our Lord's candle.

Areas mapped as intermediate/mature Riversidean sage scrub exhibit physical and vegetative characteristics found in both intermediate and mature Riversidean sage scrub.

Areas mapped as pioneer Riversidean sage scrub are generally located adjacent to human disturbances and along the Santa Ana River, Plunge Creek, and Mill Creek where scouring and sediment deposits result in changing substrates. The vegetation is typically sparse, of low stature and low diversity. Physical characteristics consist of boulders and cobbles without top soil. Typical species include deerweed, California buckwheat, scalebroom, and mulefat.

### 2.3.5 Disturbed Habitat

Disturbed habitat refers to areas that lack vegetation entirely but do not contain an impermeable surface. These areas are generally the result of severe or repeated mechanical disturbance. Onsite, these areas are characterized by weedy, introduced annuals, including black mustard, telegraph weed, red-stemmed filaree, and non-native grasses such as bromes and wild oat.

### 2.3.6 Recharge Basins

The recharge basins were constructed onsite by the SBVWCD. These basins contain standing water intermittently during the year. When dry, they can be characterized as similar to disturbed habitat described above.

### 2.3.7 Developed Land

Developed land refers primarily to mining pits and paved roads throughout the plan area. However, developed land also includes previously graded areas, landscaped areas and areas actively maintained or utilized in association with existing developments.

## 2.4 Species

### 2.4.1 Observed Wildlife

Based on surveys conducted in the plan area, seventy-seven wildlife species have been observed or detected. These species included 3 amphibians, 17 mammals, 11 reptiles, and 46 birds. The bird species include a variety of upland birds, such as mourning dove, killdeer, Say's phoebe, scrub jay, and house finch. Raptors include American kestrel, white-tailed kite, and red-tailed hawk. Amphibians included western toad, Pacific tree frog, and western spadefoot. Observed mammals include striped skunk, coyote, California ground squirrel, Virginia opossum, and desert cottontail. In addition, the California side-blotched lizard, western fence lizard, and silvery legless lizard were observed.

### 2.4.2 Special Status Species

Table 2-2 identifies all special status species associated with the habitats in and near the plan area and indicates the probability of their occurrence within the plan area. The four covered species are the only federally and State listed species known to occur within the plan area. Other non-listed special status species known or with a high to moderate potential to occur in the plan area include: Parry's spineflower, Plummer's mariposa lily, Robinson's pepper-grass, western spadefoot, coastal western whiptail, silvery legless lizard, San Diego horned lizard, Bell's sage sparrow, burrowing owl, California horned lark, Cooper's hawk, loggerhead shrike, Southern California rufous-crowned sparrow, white-tailed kite, Los Angeles pocket mouse, northwestern San Diego pocket mouse, San Diego blacktailed jackrabbit, San Diego desert woodrat, and western mastiff bat.

**Table 2-2. Special Status Plants and Wildlife Occurring in Southwestern San Bernardino County and the Probability of their Occurrence in the Plan Area**

Scientific Name	Common Name	Status	Habitat and Distribution	Probability of Occurrence
<b>Plants</b>				
<i>Berberis nevadensis</i>	Nevin's barberry	FE/SE /CNPS 1B	Gravelly wash margins in alluvial scrub, or coarse soils in chaparral; typically 275 to 825 meters (900 to 2,700 feet) elevation; Los Angeles, San Bernardino, Riverside, and San Diego Counties.	<b>Absent.</b> Site is outside the expected range of this species. Nearest location of natural population is in canyons over 4 miles to southwest of site. Species not known from Santa Ana River.
<i>Calochortus plummerae</i>	Plummer's mariposa lily	-/SP /CNPS 1B	Sandy or rocky sites of (usually) granitic or alluvial material in valley and foothill grassland, coastal scrub, chaparral, cismontane woodland, and lower montane coniferous forest at 100 to 1,700 meters (300 to 5,600 feet) elevation. Known from the Santa Monica Mountains to San Jacinto Mountains in Riverside, San Bernardino, Los Angeles, and Ventura Counties.	<b>Present.</b> Known from the site.
<i>Carex comosa</i>	Bristly sedge	-/SP /CNPS 2	Bogs and fens, freshwater marshes and swamps, and lake margins below 425 meters (1,400 feet). Known from Lake, San Bernardino, Santa Cruz, San Francisco, Shasta, San Joaquin, and Sonoma Counties, and Idaho, Oregon, and Washington. The last known occurrence of this species in San Bernardino County was in 1882.	<b>Absent.</b> No marshes or similar habitats on the site. Believed to be extirpated.
<i>Centromadia pungens ssp. laevis</i>	Smooth tarplant	-/SP /CNPS 1B	Alkaline areas in chenopod scrub, meadows, playas, riparian woodland, valley and foothill grassland below 480 meters (1,600 feet) elevation. Known from Riverside and San Bernardino Counties, extirpated from San Diego County.	<b>Absent.</b> No alkaline soils on the site.
<i>Chorizanthe parryi</i> var. <i>parryi</i>	Parry's spineflower	-/SP /CNPS 3	Dry sandy soils in chaparral and coastal sage scrub at 40 to 1,750 meters (100 to 5,700 feet) elevation. Known only from Riverside and San Bernardino Counties and possibly extending into Los Angeles County.	<b>Present.</b> Known from the site.
<i>Dodecahema leptoceras</i>	Slender-horned spineflower	FE/SE /CNPS 1B	Gravel soils of Temecula arkose deposits in openings in chamise chaparral in the Vail Lake Area, or on sandy soils in opening in alluvial scrub (usually late seral stage) in floodplain terraces and benches that receive overbank deposits every 50 to 100 years from generally large washes or rivers; 200 to 760 meters (600 to 2,500 feet) elevation. Los Angeles, Riverside, and San Bernardino Counties.	<b>Present.</b> Known from the site.

Scientific Name	Common Name	Status	Habitat and Distribution	Probability of Occurrence
<i>Eriastrum densifolium</i> ssp. <i>sanctorum</i>	Santa Ana River woollystar	FE/SE/C NPS 1B	Sandy soils of floodplains and terraced fluvial deposits of the Santa Ana River and larger tributaries (Lytle and Cajon Creeks, lower portions of City and Mill Creeks) at 120 to 625 meters (400 to 2,100 feet) elevation in San Bernardino and Riverside Counties.	<b>Present.</b> Known from the site.
<i>Helianthus nuttallii</i> ssp. <i>parishii</i>	Los Angeles sunflower	-/SP /CNPS 1A	Marshes and swamps (coastal salt and freshwater) in elevations from 10 to 500 meters (30 to 1,600 feet). This species is historically known from Los Angeles, Orange and San Bernardino Counties, California. Last seen in 1937. Presumed extinct.	<b>Absent.</b> No suitable habitat.
<i>Horkelia cuneata</i> ssp. <i>puberula</i>	Mesa horkelia	-/SP /CNPS 1B	Sandy or gravelly soils in chaparral, or rarely in cismontane woodland or coastal scrub at 70 to 825 meters (200 to 2,700 feet) elevation. Known from San Luis Obispo, Santa Barbara, Los Angeles, and Orange Counties. Believed extirpated from Ventura, San Bernardino, Riverside, and San Diego Counties.	<b>Absent.</b> Known only historically from site vicinity. Believed extirpated from region.
<i>Imperata brevifolia</i>	California satintail	-/- /CNPS 1	Wet areas below 500 meters (1,600 feet) elevation. Widespread in California and the western U. S. Also occurs in Mexico.	<b>Low.</b> On-site habitat marginal.
<i>Lepidium virginicum</i> var. <i>robinsonii</i>	Robinson's pepper-grass	-/SP /CNPS 1B	Dry soils in coastal sage scrub and chaparral, typically below 500 meters (1,600 feet) elevation. In California, known only from Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, and San Diego Counties. This species is small, inconspicuous, relatively difficult to identify, and often overlooked in biological surveys.	<b>Present.</b> Known from the site.
<i>Lycium parishii</i>	Parish's desertthorn	-/SP /CNPS 1	Deciduous shrub of coastal scrub and Sonoran desert scrub at 305 to 1,000 meters (1,000 to 3,300 feet) elevation. In California, known from Imperial and San Diego Counties. Report from Riverside County is based on a misidentification. Known only historically from San Bernardino County (benches and/or foothills north of San Bernardino).	<b>Absent.</b> Nearest occurrence was from 1885, approximately 10 miles from site. Believed extirpated in San Bernardino County.
<i>Malacothanmus parishii</i>	Parish's bush mallow	-/SP /CNPS 1A	Known only from one occurrence in 1895, in chaparral and coastal sage scrub at 490 meters (1,600 feet) elevation in vicinity of San Bernardino. Presumed extinct.	<b>Absent.</b> Known only historically from site vicinity. Presumed extinct.
<i>Monardella pringlei</i>	Pringle's monardella	-/SP /CNPS 1A	Sandy hills in coastal sage scrub at 300 to 400 meters (980 to 1,300 feet) elevation. Known only from two occurrences west of Colton. Last seen in 1941. Habitat lost to urbanization. Presumed extinct.	<b>Absent.</b> Nearest record approximately 8 miles from the site. Habitat on site marginal or absent. Presumed extinct.

Scientific Name	Common Name	Status	Habitat and Distribution	Probability of Occurrence
<i>Rorippa gambelii</i>	Gambel's watercress	FE/SE /CNPS 1B	Freshwater or brackish marshes and swamps; 5 to 330 meters (20 to 1,100 feet) elevation. Known from Los Angeles, Orange, San Diego, and San Luis Obispo Counties and Baja California.	<b>Absent.</b> No marshes or swamps on-site.
<i>Sidalcea neomexicana</i>	Salt spring checkerbloom	-/SP /CNPS 2	Alkaline springs and marshes below 1,530 meters (5,000 feet) elevation. In California, known only from Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, and Ventura Counties.	<b>Absent.</b> No alkaline springs or marshes on site.
<i>Sphenopholis obtusata</i>	Prairie wedge grass	-/SP /CNPS 2	Cismontane woodland, meadows and seeps/mesic, in elevations ranging from 300 to 2,000 meters (1,000 to 6,600 feet), in Amador, Fresno, Inyo, Mono, Riverside, San Bernardino, and Tulare Counties.	<b>Absent.</b> No woodlands, meadows, or seeps on site.
<i>Symphyotrichum defoliatum</i> ( <i>Aster defoliatum</i> )	San Bernardino aster	-/SP /CNPS 1B	Vernally wet sites (such as ditches, streams, and springs) in many plant communities below 2,040 meters (6,700 feet) elevation. In California, known from Ventura, Kern, San Bernardino, Los Angeles, Orange, Riverside, and San Diego Counties.	<b>Low.</b> No records of recent occurrences in project vicinity. Habitat on site is marginal or absent.
<b>Invertebrates</b>				
<i>Carolella busckana</i>	Busck's gallmoth	-/SA	Habitat requirements unknown.	<b>Low.</b> Only known occurrence from project vicinity was in Loma Linda and is believed to be extirpated.
<i>Rhaphiomidas terminatus abdominalis</i>	Delhi sands flowerloving fly	FE/SA	Restricted to Delhi series sands in western Riverside and San Bernardino Counties.	<b>Absent.</b> No Delhi soils on site.
<b>Fishes</b>				
<i>Catostomus santaanae</i>	Santa Ana sucker	FT/CSC	The Santa Ana sucker's historical range includes the Los Angeles, San Gabriel, and Santa Ana River drainage systems located in southern California. An introduced population also occurs in the Santa Clara River drainage system in southern California. Found in shallow, cool, running water.	<b>Absent.</b> No perennial water on site.
<i>Gila orcutti</i>	Arroyo chub	-/CSC	Perennial streams or intermittent streams with permanent pools; slow water sections of streams with mud or sand substrates; spawning occurs in pools. Native to Los Angeles, San Gabriel, San Luis Rey, Santa Ana, and Santa Margarita River systems; introduced in Santa Ynez, Santa Maria, Cuyama, and Mojave River systems and smaller coastal streams.	<b>Absent.</b> No perennial water on site.

Scientific Name	Common Name	Status	Habitat and Distribution	Probability of Occurrence
<i>Rhinichthys osculus ssp. 3</i>	Santa Ana speckled dace	-/CSC	Found in riffles in small streams and shore areas with abundant gravel and rock within the headwaters of the Santa Ana and San Gabriel River drainages. Currently not found in the project site, but still found in Plunge Creek upstream from Greenspot Road Bridge. Historically found in Santa Ana River, Plunge Creek, City Creek, and Mill Creek, but has been extirpated.	<b>Absent.</b> No perennial water on site.
<b>Amphibians</b>				
<i>Rana muscosa</i>	Mountain yellowlegged frog	FE/CSC	Ponds, lakes, and streams at moderate to high elevation; appears to prefer bodies of water with open margins and gently sloping bottom. Sierra Nevada Mountains and Transverse Ranges.	<b>Absent.</b> No perennial water on site.
<i>Spea (=Scaphiopus) hammondi</i>	Western spadefoot	-/CSC	Grasslands and occasionally hardwood woodlands; requires vernal pools (persisting for at least three weeks) for breeding; burrows in loose soils during dry season. Occurs in the Central Valley and adjacent foothills, the non-desert areas of southern California, and in Baja California.	<b>Present.</b> Observed on site.
<b>Reptiles</b>				
<i>Anniella pulchra Pulchra</i>	Silvery legless lizard	-/CSC	Inhabits moist loose soil and humus from central California to northern Baja California.	<b>Present.</b> Observed on site.
<i>Aspidoscelis tigris stejnegeri</i>	Coastal western whiptail	-/SA	Wide variety of habitats including coastal sage scrub, sparse grassland, and riparian woodland; coastal and inland valleys and foothills; Ventura County to Baja California.	<b>High.</b> Relatively widespread and common.
<i>Crotalus ruber ruber</i>	Northern reddiamond rattlesnake	-/CSC	Desert scrub, thornscrub, open chaparral and woodland; occasional in grassland and cultivated areas. Prefers rocky areas and dense vegetation. Morongo Valley in San Bernardino and Riverside Counties to the west and south to Baja California.	<b>Moderate.</b> Relatively widespread and common.
<i>Diadophis punctatus modestus</i>	San Bernardino ringneck snake	-/SA	Under surface objects along drainage courses, in mesic chaparral and oak and walnut woodland communities. Moist habitats of southwestern California from about Ventura to Orange Counties.	<b>Absent.</b> Suitable mesic chaparral and oak and walnut woodland communities not present on site.

Scientific Name	Common Name	Status	Habitat and Distribution	Probability of Occurrence
<i>Phrynosoma coronatum blainvillei</i>	San Diego horned lizard	-/CSC	Occurs in annual grassland, coastal sage scrub, chaparral, and woodland communities. Prefers open country, especially sandy areas, washes, and floodplains. Requires open areas for sunning, bushes for cover, patches of loose soil for burial, and an abundant supply of ants or other insects. Occurs in non-desert areas from Santa Barbara, Ventura, Kern, and Los Angeles Counties south to Baja California at elevations below 1,830 meters (6,000 feet).	<b>Present.</b> Known from the site.
<i>Thamnophis hammondi</i>	Two-striped garter snake	-/CSC	Highly aquatic. Only in or near permanent sources of water. Streams with rocky beds supporting willows or other riparian vegetation. From Monterey County to northwest Baja California.	<b>Absent.</b> No perennial water on site.
<b>Birds</b>				
<i>Accipiter cooperii (nesting)</i>	Cooper's hawk	-/CSC	Primarily forests and woodlands throughout North America. Increasingly common in urban habitats. Nests in tall trees, especially pines. Occasionally nests in isolated trees in more open areas.	<b>Low (nesting).</b> Marginally suitable habitat is present for nesting. <b>Present (foraging).</b> This species has been observed foraging on the site.
<i>Aimophila ruficeps canescens</i>	Southern California rufous crowned Sparrow	-/CSC	Steep, rocky coastal sage scrub and open chaparral habitats, particularly scrubby areas mixed with grasslands. From Santa Barbara County to northwestern Baja California.	<b>Present.</b> Known from the site.
<i>Amphispiza belli belli</i>	Bell's sage sparrow	-/CSC	Occupies chaparral and coastal sage scrub from west central California to northwestern Baja California.	<b>Present.</b> Known from the site.
<i>Aquila chrysaetos</i>	Golden eagle	-/CSC, CFP	Generally open country of the Temperate Zone worldwide. Nesting primarily in rugged mountainous country. Uncommon resident in southern California.	<b>Absent (nesting).</b> Nesting habitat is not present. <b>Low (foraging).</b> This species has been seen flying over the site. May occasionally forage on site.
<i>Athene cunicularia</i>	Burrowing owl	-/CSC	Open country in much of North and South America. Usually occupies ground squirrel burrows in open, dry grasslands, agricultural and range lands, railroad rights-of-way, and margins of highways, golf courses, and airports. Often utilizes man-made structures, such as earthen berms, cement culverts, cement, asphalt, rock, or wood debris piles.	<b>Present.</b> Known from the site.

Scientific Name	Common Name	Status	Habitat and Distribution	Probability of Occurrence
<i>Coccyzus americanus occidentalis</i> (nesting)	Western yellowbilled cuckoo	-/SE	Breeds and nests in extensive stands of dense cottonwood/willow riparian forest along broad, lower flood bottoms of larger river systems at scattered locales in western North America; winters in South America.	<b>Absent.</b> No riparian forest on site.
<i>Dendroica petechia brewsteri</i> (nesting)	California yellow warbler	-/CSC	Riparian woodland while nesting in the western U.S. and northwestern Baja California; more widespread in brushy areas and woodlands during migration and winter, when occurring from western Mexico to northern South America. Migrants belonging to other subspecies are widespread and common.	<b>Absent (nesting).</b> No riparian woodlands on site.
<i>Elanus leucurus</i> (nesting)	White-tailed kite	-/CFP	Typically nests in riparian trees such as oaks, willows, and cottonwoods at low elevations. Forages in open country. Found in South America and in southern areas and along the western coast of North America.	<b>Low (nesting).</b> Typical nesting habitat does not occur on-site. <b>Present (foraging).</b> Species was observed foraging on site.
<i>Empidonax traillii extimus</i>	Southwestern willow flycatcher	FE/SE	Rare and local breeder in extensive riparian areas of dense willows or (rarely) tamarisk, usually with standing water, in the southwestern U.S. and (formerly?) northwestern Mexico. Winters in Central and South America.	<b>Absent.</b> No riparian habitat on site.
<i>Eremophila alpestris actia</i>	California horned lark	-/CSC	Open grasslands and fields, agricultural area, open montane grasslands. This subspecies is resident from northern Baja California northward throughout non-desert areas to Humboldt County, including the San Joaquin Valley and the western foothills of the Sierra Nevada (north to Calaveras County). During the breeding season, this is the only subspecies of horned lark in non-desert southern California; however, from September through April or early May, other subspecies visit the area.	<b>Present.</b> Observed on site.
<i>Falco mexicanus</i> (nesting)	Prairie falcon	-/CSC	Open country in much of North America. Nests in cliffs or rocky outcrops; forages in open arid valleys and agricultural fields. Rare in southwestern California.	<b>Absent (nesting).</b> Nesting habitat is not present. <b>Low (foraging).</b> This species has been seen flying over the site. May occasionally forage on site.
<i>Icteria virens</i> (nesting)	Yellow-breasted chat	-/CSC	Riparian thickets of willow, brushy tangles near watercourses. Nests in riparian woodland throughout much of western North America. Winters in Central America.	<b>Absent.</b> No riparian habitat on site.



Scientific Name	Common Name	Status	Habitat and Distribution	Probability of Occurrence
<i>Lanius ludovicianus (nesting)</i>	Loggerhead shrike	-/CSC	Open fields with scattered trees or shrubs, open country with short vegetation, pastures, old orchards, cemeteries, golf courses, riparian areas, and open woodlands. Found in open country in much of North America.	<b>Present.</b> Known from the site.
<i>Poliophtila californica californica</i>	Coastal California Gnatcatcher	FT/CSC	Inhabits coastal sage scrub in low-lying foothills and valleys in cismontane southwestern California and Baja California.	<b>Present.</b> Known from site.
<i>Vireo bellii pusillus</i>	Least Bell's vireo	FE/SE	Riparian forests and willow thickets. Nests from central California to northern Baja California. Winters in southern Baja California.	<b>Absent.</b> No riparian habitat on site.
<b>Mammals</b>				
<i>Chaetodipus fallax fallax</i>	Northwestern San Diego pocket mouse	-/CSC	Found in sandy herbaceous areas, usually associated with rocks or coarse gravel in coastal scrub, chaparral, grasslands, and sagebrush, from Los Angeles County through southwestern San Bernardino, western Riverside, and San Diego Counties to northern Baja California.	<b>Present.</b> Known from site.
<i>Dipodomys merriami parvus</i>	San Bernardino kangaroo rat	FE/CSC	Gravelly and sandy soils of alluvial fans, braided river channels, active channels and sandy terraces; San Bernardino Valley (San Bernardino County) and San Jacinto Valley (Riverside County).	<b>Present.</b> Known from the site.
<i>Eumops perotis</i>	Western mastiff bat	-/CSC	Occurs in many open, semi-arid to arid habitats, including conifer and deciduous woodlands, coastal scrub, grasslands, chaparral, etc.; roosts in crevices in vertical cliff faces, high buildings, trees, and tunnels, and travels widely when foraging.	<b>Low (roosting).</b> Roosting habitat may be present. <b>Present (foraging).</b> Observed foraging over site.
<i>Lasiurus xanthinus</i>	Western yellow bat	-/SA	Occurs in southern California in palm oases and in residential areas with untrimmed palm trees. Roosts primarily in trees, especially the dead fronds of palm trees. Forages over water and among trees.	<b>Absent.</b> No palm habitat on site.
<i>Lepus californicus bennettii</i>	San Diego blacktailed jackrabbit	-/CSC	Variety of habitats including herbaceous and desert scrub areas, early stages of open forest and chaparral. Most common in relatively open habitats. Restricted to the cismontane areas of southern California, extending from the coast to the Santa Monica, San Gabriel, San Bernardino, and Santa Rosa Mountain ranges.	<b>Present.</b> Known from the site.
<i>Neotoma lepida intermedia</i>	San Diego desert woodrat	-/CSC	Frequents poorly vegetated arid lands and is especially associated with cactus patches. Occurs along the Pacific slope from San Luis Obispo County to northwest Baja California.	<b>Present.</b> Known from the site.

Scientific Name	Common Name	Status	Habitat and Distribution	Probability of Occurrence
<i>Onychomys torridus Ramona</i>	Southern Grasshopper mouse	-/CSC	Arid habitats, especially scrub habitats with friable soils. Coastal scrub, mixed chaparral, sagebrush, low sage, and bitterbrush habitats. Arid portions of southwestern California and northwestern Baja California.	<b>Moderate.</b> Habitat on site appears suitable.
<i>Perognathus longimembris brevinasus</i>	Los Angeles pocket mouse	-/CSC	Prefers sandy soil for burrowing, but has been found on gravel washes and stony soils. Found in coastal scrub in Los Angeles, Riverside, and San Bernardino Counties.	<b>Present.</b> Known from the site.
<i>Taxidea taxus</i>	American badger	-/CSC	Primary habitat requirements seem to be sufficient food and friable soils in relatively open uncultivated ground in grasslands, woodlands, and desert. Widely distributed in North America.	<b>Low.</b> No recent records from project vicinity.

### Codes

Status Codes = federal/state/CNPS

FE: Federally-listed as Endangered.

FT: Federally-listed as Threatened.

CFP: California Fully Protected

CSC: California Species of Special Concern.

SA: Special animal

SE: State-listed as Endangered.

SP: Special Plant.

ST: State-listed as Threatened.

CNPS (California Native Plant Society) Designations:

1A Plants presumed extinct in California.

1B Plants considered by CNPS to be rare, threatened or endangered throughout its range.

2 Plants considered by CNPS to be rare, threatened or endangered in California, but more common elsewhere.

3 Plants suggested by CNPS for consideration as endangered but about which more information is needed.

Sources: Database records for the Redlands, Yucaipa, and San Bernardino South U.S. Geological Survey 7.5-minute quadrangles; Wash Plan EIR (LSA 2008).

This chapter provides a brief description of the covered species and summarizes what is known about their occurrence in the plan area. Additional, more detailed information about the characteristics and requirements of each species is provided in Appendix A.

## 3.1 San Bernardino Kangaroo Rat

### 3.1.2 Characteristics and Requirements

SBKR is federally listed as endangered and identified by CDFG as a species of special concern. It is typically found in Riversidean alluvial fan sage scrub and sandy loam soils, alluvial fans and flood plains, and along washes with nearby sage scrub (McKernan 1997 as cited in USFWS 1998) but also occurs in other habitats, including chaparral and disturbed areas. Intermediate phase alluvial fan sage scrub, which typically occurs on the first terraces above scoured channels, is considered high quality habitat for SBKR because it retains open, sandy areas favored by the species.

SBKR is a subspecies of *Dipodomys merriami*, and much of the information about SBKR characteristics and requirements is derived from studies of *D. merriami*. *D. merriami* are primarily granivores (seed eaters), but they ingest herbaceous material and insects when available (Bradley and Mauer 1971; Reichman and Price 1993). They collect seeds into fur-lined cheek pouches and store them in scattered surface caches in the vicinity of their home burrows for later retrieval and consumption (Daly et al. 1992a). Unlike some larger kangaroo rat species (e.g., *D. spectabilis*), *D. merriami* do not hoard seeds to a central location. Bipedal locomotion allows them to travel large distances over open ground very quickly and exploit widely scattered food sources. Like all other kangaroo rats, *D. merriami* are primarily nocturnal animals. They have relatively low reproductive output for rodents (see Wilson et al. 1985) and typically breed one or two times per year, with the peak breeding being mid-winter through spring. Breeding activities appear to vary in relation to ecological conditions, and individuals may not breed in years when conditions are poor. Recruitment of juveniles into the population is unknown, but is thought to vary in relation to breeding activities and ecological conditions. Individual *D. merriami* have observed life spans of at least five years in the wild and at least seven years in captivity (Behrends, pers. obs.; Daly et al. 1990). Because *D. merriami* are long-lived and recruitment of juveniles into populations probably varies from year-to-year, most populations are comprised primarily of adults. Individuals tend to establish home ranges in proximity to their natal range. Dispersal in *D. merriami* is slightly male-biased, but more than 85% of individuals disperse less than 125 meters over their lifetimes (Jones 1989).

Kangaroo rats and other heteromyid rodents modify their environments (Brown and Harney 1993). They dig burrows, which moves the soils and provides habitat and refugia for other species, including other rodents, reptiles, amphibians, birds, and invertebrates. Collection, storage, and consumption of seeds by kangaroo rats have profound effects on the vegetation

structure of the habitats they occupy. They are perhaps most famous for their water conservation capabilities. Schmidt- Nielsen (1964) and French (1993) summarized the behavioral and physiological means by which kangaroo rats, and *D. merriami*, in particular, conserve water: they occupy burrows during daylight hours to avoid high temperatures; their evaporative water loss is much lower than other mammals when corrected for body mass; they have relatively low metabolic rates (about 30% lower than average mammals); they produce low volumes of highly concentrated urine and low moisture feces; and their water requirements can be satisfied by oxidative or metabolic water in conjunction with the seeds and herbaceous material they consume.

### 3.1.2 Occurrence in the Plan Area

Habitat assessments and trapping studies by URS (1999, 2000a-d, 2003a-d), the San Bernardino County Museum (2000-2002), and USACE (2006-2008) have consistently found SBKR in suitable habitat throughout the plan area. However, not all suitable habitat in the plan area has been surveyed and not all areas with what appears to be suitable habitat are occupied by SBKR.

To better extrapolate biological data for SBKR across the plan area, a predictive species distribution model was developed by ICF Jones & Stokes using multiple layers of GIS data compiled by M.J. Klinefelter as part of a habitat assessment of the Wash (see Appendices B and C for the reports). The SBKR model was generated using a series of four landscape variables (or data layers): topography, geology, vegetation, and aerial photography (although topography was eventually dropped from the model). Each GIS data layer consists of either categorical data (e.g., the different vegetation types and soil age) or continuous data (e.g., elevation or slope) that can be selected as being associated with the habitat of a given species. The model ranked all lands in the plan area as having “high,” “moderate,” “low,” or “no” potential habitat suitability.

To evaluate the results of the model, SBKR trapping data were used to determine the occupancy rate of grids located in areas modeled as having high, moderate, low, and no habitat suitability.

Figure 6 displays the model results and the trapping data used to evaluate the model. Table 3-1 indicates the acres per suitability category within each of the plan area subcomponents.

### 3.1.3 Critical Habitat

Critical habitat for SBKR was designated in April 2002 (67 Federal Register 19811) and revised in October 2008 (73 Federal Register 61936). Figure 7 shows designated critical habitat within the plan area on the SBKR model results map. Table 3-2 indicates how the SBKR habitat suitability model classifies the designated critical habitat.

**Figure 6. SBKR Habitat Suitability Model Results and Trapping Data**

**Figure 7. Designated SBKR Critical Habitat**

**Table 3-1. SBKR Habitat Suitability Model Results (acres)**

Plan Area Subcomponent	Predicted Suitability of Habitat for SBKR				
	High Potential	Moderate Potential	Low Potential	No Potential	Total
Newly Conserved	282.71	155.09	297.25	67.35	802.40
Additionally Managed	314.70	200.94	82.67	20.15	618.46
Mining Impact Area	193.40	190.97	57.11	754.60	1196.08
Road Impact Area	6.59	4.39	5.67	5.64	22.29
Other SBVWCD Lands	22.34	54.46	329.00	395.71	801.51
Other Flood Control Lands	322.14	19.92	12.21	21.96	376.23
Other Lands	9.23	11.98	5.8	33.51	60.52
WSPA	296.13	138.64	88.19	21.59	544.55
Highland Mitigation Lands	3.49	8.51	2.10	1.44	15.54
Developed	0.03	0.00	0.23	29.40	29.66
Total	1450.76	784.90	880.23	1351.35	4467.24

**Table 3-2. Results of Applying the SBKR Habitat Suitability Model to Designated SBKR Critical Habitat**

SBKR Model Habitat Suitability Category	Acres of SBKR Critical Habitat
High	992.17
Moderate	483.81
Low	244.54
No	133.29
Total	1,853.82

## 3.2 California Gnatcatcher

### 3.2.1 Characteristics and Requirements

Gnatcatcher is federally listed as threatened and identified by CDFG as a species of special concern. It typically occurs in or near sage scrub habitat, which is a broad category of vegetation that includes the following plant communities as classified by Holland (1986): Venturan coastal sage scrub, Diegan coastal sage scrub, maritime succulent scrub, Riversidean upland sage scrub, Riversidean alluvial fan sage scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub. Coastal sage scrub is patchily distributed throughout the range of the Gnatcatcher, and the Gnatcatcher is not uniformly distributed within the structurally and floristically variable coastal sage scrub community. Rather, the subspecies tends to occur most frequently within the California sagebrush and California buckwheat-dominated stands on mesas, gently sloping areas, and along the lower slopes of the coastal ranges (Atwood 1990).

Gnatcatchers also use chaparral, grassland, riparian, and alluvial habitats where they occur adjacent to sage scrub (Bontrager 1991). The use of these habitats appears to be most frequent during late summer, autumn, and winter, with smaller numbers of birds using such areas during the breeding season. These non-sage scrub habitats are used for dispersal, but data on dispersal use are largely anecdotal (Bowler 1995; Campbell et al. 1995). Although existing quantitative data may reveal relatively little about Gnatcatcher use of these other habitats, these areas may be critical during certain times of the year for dispersal or as foraging areas during drought conditions (Campbell et al. 1998). Breeding territories have also been documented in non-sage scrub habitat.

Gnatcatchers are primarily insectivorous, nonmigratory, and exhibit strong site tenacity (Atwood 1990). The breeding season extends from mid-February through mid-August, with the peak of nesting activity occurring from mid-March through mid-May. The Gnatcatcher nest is a small, cup-shaped basket usually found one to three feet above the ground in a small shrub or cactus. Clutch sizes range between three and five eggs, with the average being four. Juvenile birds associate with their parents for several weeks (sometimes months) after fledging (Atwood 1990). Post-breeding dispersal of fledglings occurs between late May and late November.

### 3.2.2 Occurrence in the Plan Area

Distribution of the Gnatcatcher within San Bernardino County is not well known and is based on sporadic sightings and occasional project-related studies (Davis et. al 1998). Records from the 1990s exist from portions of the Lytle Creek wash, the Santa Ana River wash, the southern slope of the San Gabriel Mountains (Etiwanda Fan), and the Jurupa Hills (Davis et. al 1998). Comprehensive surveys in San Bernardino County have not been completed.

Based on the California Natural Diversity Database (CNDDB), the USFWS database, the San Bernardino County Museum, and available literature, there are seven records of Gnatcatcher occurrence in the Wash Plan Area. The records are for locations in mature Riversidean alluvial fan sage scrub in a land use area currently designated as flood plain, and in pioneer Riversidean



alluvial fan sage scrub in a land use area currently designated as water ways. The locations are in the central portion of the Wash Plan Area. There are also 8 locations of California Gnatcatcher documented in the East Branch Extension Phase II EIR that occur just outside the Wash Plan Area at the end of Opal Avenue, as well as three locations to the northeast of the base of Crafton Avenue. The habitat present in these areas could be considered a form of mature alluvial fan sage scrub because of the density of shrubs. Although the Wash Plan provides ample Riversidean alluvial fan sage scrub habitat, the California gnatcatcher has not been documented as a breeder within the Wash Plan. However, several breeding pairs occur just to the south of the Wash Plan area, and these individuals are likely to expand into the Wash Plan for foraging opportunities late in the breeding season when fledglings are present, as well as in the non-breeding when territories tend to expand (Preston et al. 1998a). The areas mapped as upland Riversidean sage scrub in the Wash Plan provide the highest quality opportunities for future nesting attempts. Most of the alluvial sage scrub habitat could be periodically utilized for foraging opportunities, although one would expect the likelihood to decrease away from nesting areas. Currently, Riversidean sage scrub occurs in the Wash Plan only on cut-slopes of the various pits and mines, as well as one previously disturbed area. The areas are patchily distributed and tend to occur as long linear strips with fairly steep slopes. They also support mostly low stature plants due to the extreme conditions (well-drained steep manufactured slopes). Although Gnatcatcher is known to occur in revegetated sage scrub, they avoid nesting on very steep slopes (greater than 40 percent) (Bontrager 1991, Mock and Bolger 1992, Ogden 1992). The cut slopes in the plan area are 50%.

Figure 8 shows the distribution of foraging and potential nesting habitat in the plan area and where Gnatcatchers have been observed. Table 3-3 indicates the acres of foraging or nesting habitat within the plan area subcomponents.

### 3.2.3 Critical Habitat

The final rule for the designation of critical habitat was published on December 19, 2007 (72 FR 72010), which revised the designated critical habitat originally published on October 24 2000 (65 Federal Register 63679). There is not critical habitat for Gnatcatcher in the plan area.

**Table 3-3. Gnatcatcher Foraging and Potential Nesting Habitat in the Plan Area (acres)**

<b>Plan Area Subcomponent</b>	<b>Foraging</b>	<b>Potential Nesting</b>	<b>Not Habitat</b>	<b>Total</b>
Newly Conserved	704.25	30.64	67.40	802.29
Additionally Managed	586.50	0.00	31.81	618.31
Mining Impact Area	434.59	7.72	753.69	1196.00
Road Impact Area	16.51	0.00	5.75	22.26
Other SBVWCD Lands	448.74	0.00	352.67	801.41
Other Flood Control Lands	348.00	8.57	19.61	376.18
Other Lands	34.00	0.00	26.79	60.79
WSPA	530.42	0.00	14.35	544.77
Highland Mitigation Lands	14.10	0.00	1.44	15.54
Developed	0.03	0.00	29.64	29.67
<b>Total</b>	<b>3117.14</b>	<b>46.93</b>	<b>1303.15</b>	<b>4467.22</b>

**Figure 8. California Gnatcatcher Foraging and Potential Nesting Habitat and Occurrence Records**

## 3.3 Santa Ana River Woollystar

### 3.3.1 Characteristics and Requirements

Woollystar was federally listed as endangered on September 28, 1987 (52 Federal Register 36265), and state-listed as endangered in January 1987. The species is on the California Native Plant Society's List 1B.1. It is found only within open washes and early-successional alluvial fan scrub on open slopes above main watercourses on fluvial deposits where flooding and scouring occur at a frequency that allows the persistence of open shrublands. Suitable habitat typically contains low amounts of clay, silt, and micro-organic materials (Burk et al. 1989). These areas typically maintain a perennial plant cover of less than 50%. Sheet flood flows probably occur in this habitat every one hundred to two hundred years (USFWS 1986).

Woollystar blooms from June to August (Munz 1974). This obligate outcrosser has bright lavender-blue flowers that occur in heads of about twenty large (over one and a quarter inches long) blossoms (Burk et al. 1989). Pollen release occurs before the stigma of the same flower becomes receptive so pollen gatherers are unlikely pollinators. According to field observations by Burk et al. (1989), of the eight insect families and a hummingbird observed visiting woollystar, only digger bees, an anise swallowtail butterfly, a hummingbird, and the giant flower-loving fly are capable of reaching the woollystar flower.

Scarification of seeds is not necessary, and the optimum germination temperature is approximately 60°F. Leaching by one inch of simulated rainfall significantly increases germination as compared to wetted seeds. Seed viability is high: up to 99% (Burk et al. 1989). Germination follows early winter rains; however, many of the seedlings die in the following spring and summer (Chambers 1993). A study by Burk et al. (1989) during the 1986-87 growing season revealed that 900 to 1000 seeds were produced per plant and 92% fell within one foot of the parent plant. Sixty inches (five feet) was the longest dispersal distance observed. Woollystar outer seed coats form a mucilaginous (sticky) mass that binds the seed to surrounding soil particles. Therefore, longer dispersal distances probably are associated with flood events (Burk et al. 1989; Jigour and Roberts 1996).

### 3.3.2 Occurrence in the Plan Area

Woollystar occurs from about 150 to 580 meters above mean sea-level (AMSL) along the Santa Ana River and Lytle and Cajon Creek flood plains from the base of the San Bernardino Mountains in San Bernardino County southwest along the Santa Ana River through Riverside County into the Santa Ana Canyon of northeastern Orange County (Munz 1974; Patterson 1993; Roberts 1998; Zembal and Kramer 1985; Patterson and Tanowitz 1989).

Based on data from the CNDDDB, USFWS, the San Bernardino County Museum, and the herbarium at the University of California, Riverside (UCR), USACE, there are 2,125 locations where Woollystar have been recorded in the plan area. Key locations include along the floodplain of the Santa Ana River, Plunge Creek, and Mill Creek. Of the recorded occurrences, 41 were mapped in developed areas and may no longer be extant. The other occurrences were

mapped in Riversidean upland sage scrub; pioneer, intermediate, and mature Riversidean alluvial fan sage scrub; disturbed habitat; and the recharge basins.

Figure 9 summarizes occurrence records based on a comprehensive survey of the Wash. Table 3-4 indicates the number of plants observed within 15 meters x 15 meters survey grids.

### 3.3.3 Critical Habitat

Critical habitat has not been designated for Woollystar.

**Table 3-4. Records of Woollystar Occurrence in the Plan Area**

Plan Area Subcomponent	Number of Grids by Number of Plants Observed within Grid					
	>50	25-50	1-25	Present, # unknown	Not Present	Total
Developed	1	1	4	0	258	264
Highland Mitigation Lands	0	0	0	0	116	116
WSPA	52	54	198	174	3,087	3,565
Mining Impact Area	41	79	223	91	7,425	7,859
Road Impact Area	0	1	1	2	197	201
Newly Conserved	60	100	249	144	4,743	5,296
Additionally Managed	55	64	182	220	3,509	4,030
Other SBVWCD Lands	2	1	13	42	5,212	5,270
Other Flood Control Lands	2	2	22	36	2,512	2,574
Other Lands	0	0	3	6	402	411
Total	213	302	895	715	27,461	29,586

**Figure 9. Woollystar Occurrence Records**

## 3.4 Slender-horned Spineflower

### 3.4.1 Characteristics and Requirements

Spineflower was federally listed as endangered on September 28, 1987 (52 Federal Register 36265) and state-listed as endangered in January 1982. The species is on the California Native Plant Society's List 1B.1. At the majority of sites, it is found in sandy soil in association with mature alluvial scrub (Reveal and Hardham 1989; Rey-Vizgirdes 1994). Cryptogammic crusts are frequently present in areas occupied by slender-horned spineflower (Boyd and Banks 1995; USFWS 1986). These crusts on the soil surface are composed of associations of bryophytes (mosses), algae, lichens, and some xerophytic liverworts (Harper and Marble 1988 as cited in USFWS 1986). Cryptogrammic crusts enable soils to retain moisture and may help suppress invasion by non-native plant species (Boyd and Banks 1995; USFWS 1996).

This herbaceous annual blooms from April through June and has white to pink flowers (1.2 to 2 mm in length). The flowers produce small (1.7 to 2 mm long), brown or black achenes (Reveal and Hardham 1989). Because Spineflower is an annual and a spring-bloomer, it is expected to germinate following winter precipitation (Prigge, et al. 1993).

Spineflower is endemic to southwestern cismontane California. Only eight areas are still known to support slender-horned spineflower, including two localities in San Bernardino County (the Santa Ana River Wash and Cajon Wash) (Reveal and Hardham 1989; Rey-Vizgirdes 1994; CNDDDB 1999).

### 3.4.2 Occurrence in the Plan Area

Based on records maintained by CNDDDB, USFWS, the San Bernardino County Museum, UCR, and USACE, there are 65 records of Spineflower occurrence in the plan area. The species occurs along the floodplain of the Santa Ana River and Plunge Creek, and most occurrences were mapped in intermediate and mature Riversidean alluvial fan sage scrub.

Figure 10 is shows the locations of the occurrence records from multiple surveys over multiple years. Table 3-5 indicates the number of records per source.

### 3.4.3 Critical Habitat

Critical habitat has not been designated for Spineflower.

**Table 3-5. Records of Spineflower Occurrence in the Plan Area**

Data Source	Records of Occurrence*					
	Newly Conserved	Additionally Managed	Mining Impact Area	Road Impact Area	All Other	WSPA
CNDDDB – 1992	0	2	3	0	0	2
S. Eliason/M.Meyer - 1997	1	22	36	0	0	6
SAIC 2005	0	6	0	0	0	1
SAIC 2006	0	6	0	0	1	3
USACE – 1999	0	10	3	1	0	6
TOTAL	1	46	42	1	1	18

\* The number of records does not represent the number of populations or plants observed in a location.



**Figure 10. Spineflower Occurrence Records**

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## Chapter 4

# Potential for Take and Estimated Impacts

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### 4.1 Approach

This chapter examines the potential for the covered activities to result in the take of covered species and loss or degradation of their habitat. For each covered species, the assessment

- Considers whether or not a covered activity could result in direct harm, disruption of essential behaviors (wildlife) or functions (plants), the isolation of populations, habitat removal, habitat fragmentation, habitat degradation, increased risk of predation, or the adverse modification of designated or proposed critical habitat; and
- Estimates impacts by plan area subcomponent, in units derived from the GIS database for each species (acres of predicted habitat by suitability category for SBKR, acres of foraging and potential nesting habitat for Gnatcatcher, and occurrence records for Woollystar and Spineflower).

The effects of take and habitat loss/modification on the covered species are examined in more detail in the NEPA documentation for this HCP.

### 4.2 SBKR

Because of their nocturnal and burrow-dwelling characteristics, individual SBKR are at high risk of direct harm from covered activities that entail ground disturbance. Approximately 611 acres of suitable habitat would be removed over time as a result of covered activities.

#### 4.2.1 Potential for Covered Activities to Result in Take

##### Direct Harm

Covered activities that entail grading or other land disturbance, compaction or placement of spoils on top of, and periodic or permanent flooding of areas where SBKR are present would likely result in the killing of SBKR. Forcing SBKR into areas that could not provide adequate shelter or forage would likely lead to the demise of the displaced SBKR and hence would constitute harm. Road kill also is possible; however, because SBKR is nocturnal, there is less likelihood for interaction with moving vehicles except where SBKR are forced out of burrows by land disturbance activities. Contamination of SBKR forage through the use of certain herbicides or other chemicals in connection with vegetation management also could result in direct harm; however, use of chemicals that would kill SBKR would be prohibited under the HCP and ITP.

##### Disruption of Essential Behaviors/Functions

Covered activities that are conducted at night and involve illumination of occupied habitat could disrupt essential breeding and foraging behaviors. Except for emergency response, covered

activities are not expected to occur at night. Activities that would place temporary or permanent impediments to SBKR movement could disrupt essential dispersal patterns.

### **Isolation of Population**

Covered activities that would sever a known connection between areas of occupied habitat by removing habitat or placing an impediment in that location could result in the isolation of SBKR within parts of the plan area. Because of the widespread distribution of SBKR in the plan area and the location of land uses planned in the Wash, covered activities are not expected to isolate SBKR populations. However, land uses outside the plan area potentially could isolate the plan area population.

### **Habitat Loss**

Habitat loss will result from covered activities in the plan area that entail conversion or periodic inundation of land suitable for SBKR. These include Phase 2 and 3 water projects, road projects, and the expansion of mining operations. (See “Estimated Habitat Impacts by Plan Area Subcomponent.”)

### **Habitat Degradation or Fragmentation**

Habitat degradation could result from the effects of land disturbance and related activities, including spread of non-native plant species, changes in existing roads, existing flood control facilities, and areas disturbed by past mining operations limit the existing connections between areas of SBKR habitat within the plan area. SBKR habitat between existing mining operations would be removed. However, removal of the habitat would not sever the connections between habitat areas east of the mining operations.

### **Increased Risk of Predation**

Use of trails could lead to increased presence of SBKR predators. Discarded food could attract scavengers that also are SBKR predators. Some trail users would be accompanied by unleashed dogs capable of digging up burrows with SBKR.

Increased residential density in the vicinity of the plan area is more likely than use of trails to increase the presence of predators of SBKR.

### **Adverse Modification of Critical Habitat**

Designated critical habitat would be removed from areas identified for mining operations. There is some critical habitat on the edges of the areas designated for road projects in Redlands and the areas for the SBVWCD’s Phase 2 and 3 water projects.

## **4.2.2 Estimated Impacts by Plan Area Subcomponent**

### **Newly Conserved**

Newly Conserved lands include approximately 735 acres of SBKR habitat (283 acres with “high,” 155 acres with “moderate,” and 297 acres with “low” suitability for SBKR). Habitat

management may entail some incidental take of SBKR and temporary impacts to suitable habitat. Up to 51 acres of habitat disturbance would be allowed in a joint use area designated for the SBVWCD's Phase 3 water conservation facilities (see Figure 4). The habitat within the Phase 3 area has low potential suitability for SBKR.

### **Additionally Managed**

Additionally Managed lands include approximately 598 acres of SBKR habitat (315 acres with "high," 201 acres with "moderate," and 82 acres with "low" suitability for SBKR). Habitat management may entail some incidental take of SBKR and temporary impacts to suitable habitat. A portion of the area designated for the SBVWCD's Phase 3 facilities includes Additionally Managed Lands, and SBKR habitat would be affected if Phase 3 facilities are developed in that area.

### **Mining Impact Area**

The Mining Impact Area includes approximately 441 acres of SBKR habitat (193 acres with "high," 191 acres with "moderate," and 57 acres with "low" suitability for SBKR). Although some SBKR habitat may remain within the Mining Impact Area, all 441 acres of SBKR habitat are counted as "taken." The habitat would be removed over time as Cemex and Robertson's phase-in new quarry operations.

### **Road Impact Area**

The Road Impact Area includes approximately 17 acres of SBKR habitat (7 acres with "high," 4 acres with "moderate," and 6 acres with "low" suitability for SBKR). All 17 acres of SBKR habitat within the Road Impact Area are counted as "taken." Habitat impacts would occur in connection with improvements to existing roads.

### **Other SBVWCD Lands**

Other SBVWCD Lands include approximately 406 acres of SBKR habitat (22 acres with "high," 54 acres with "moderate," and 329 acres with "low" suitability for SBKR). Some O&M of existing facilities could have direct impacts on individual SBKR that might be incidentally present, but O&M would not result in the permanent removal of SBKR habitat. The SBVWCD's Phase 1 water conservation facilities would not entail impacts to SBKR. The Phase 2 facilities would entail disturbance of up to 92 acres in an area that is primarily habitat with "low" suitability for SBKR. Except where disturbed by Phase 2 facilities, the Other SBVWCD Lands will likely continue to support some SBKR.

### **Other Flood Control Lands**

Other Flood Control Lands include approximately 354 acres of SBKR habitat (322 acres with "high," 20 acres with "moderate," and 12 acres with "low" suitability for SBKR). Some O&M activities could have direct impacts on individual SBKR adjacent to existing facilities, but O&M would not result in the permanent removal of SBKR habitat. No new construction is proposed as a covered activity. Although not permanently conserved and managed for SBKR, these lands

buffer and interconnect with the SBKR habitat in the WSPA. Under the HCP and ITP, habitat impacts from Flood Control O&M would be limited to 10 acres.

### **Other Lands**

Other Lands include approximately 27 acres of SBKR habitat (9 acres with “high,” 12 acres with “moderate,” and 6 acres with “low” suitability for SBKR). No SBKR take or habitat impacts would occur on these lands under the HCP and ITP.

### **WSPA**

The WSPA includes approximately 523 acres of SBKR habitat (296 acres with “high,” 139 acres with “moderate,” and 88 acres with “low” suitability for SBKR). No take of SBKR within WSPA would be authorized under the HCP and ITP. The Road Impact Area crosses a southern segment but is not part of WSPA.

### **Highland Mitigation Lands**

The Highland Mitigation Lands include approximately 14 acres of SBKR habitat (4 acres with “high,” 9 acres with “moderate,” and 1 acre with “low” suitability for SBKR). No impacts to SBKR on these lands are anticipated under the HCP.

### **Critical Habitat**

The expansion of mining operations will remove designated critical habitat. There also is critical habitat in the Redlands’ portion of the Road Impact Area and on the edges of the areas for the Phase 2 and 3 water conservation facilities. Management of SBKR habitat will occur in designated critical habitat on Newly Conserved and Additionally Managed lands.

## **4.3 Gnatcatcher**

There is a low-to-no probability of direct harm to individual Gnatcatchers from the covered activities. Approximately 612 acres of Gnatcatcher habitat (including approximately 8 acres of potential nesting habitat) would be removed over time as a result of covered activities.

### **4.3.1 Potential for Covered Activities to Result in Take**

#### **Direct Harm**

There is low-to-no probability of direct harm to foraging Gnatcatchers from covered activities. Nesting does not currently occur onsite. Should it occur, nesting birds and their nests, eggs, and young would be protected from direct harm.

#### **Disruption of Essential Behaviors/Functions**

There is low-to-no probability of disrupting foraging behaviors to a degree that would constitute harm. If nesting occurs onsite in the future, seasonal restrictions and other impact

avoidance measures would apply to covered activities in areas with or immediately adjacent to occupied nesting habitat.

### **Isolation of Population**

There is low-to-no probability that covered activities would isolate any Gnatcatcher population.

### **Habitat Loss**

Habitat loss will result from covered activities in the plan area that entail excavation, grading, or periodic flooding of foraging habitat for Gnatcatcher. A small area of potential nesting habitat also would be removed. The projects removing foraging habitat are the Phase 2 and 3 water conservation facilities, the road projects, and the expansion of mining operations. The mining operations also would remove potential nesting habitat. (See “Estimated Habitat Impacts” below.)

### **Habitat Degradation or Fragmentation**

Habitat degradation could result from the effects of land disturbance and related activities, including spread of non-native plant species, changes in hydrology, and changes to natural fire regimes. None of the covered activities would fragment existing blocks of foraging habitat in the plan area. The covered activities would remove the smaller of two isolated patches of potential nesting habitat in the plan area. The larger patch of nesting habitat would not be fragmented or isolated from adjacent habitat outside the plan area.

### **Increased Risk of Predation**

Use of trails could lead to increased presence of SBKR predators. Discarded food could attract scavengers that also are SBKR predators. Some trail users would be accompanied by unleashed dogs capable of digging up burrows with SBKR.

Increased residential density in the vicinity of the plan area is more likely than use of trails to increase the presence of predators of SBKR.

### **Adverse Modification of Critical Habitat**

There is no critical habitat for Gnatcatcher in or adjacent to the plan area.

## **4.3.2 Estimated Impacts by Plan Area Subcomponent**

### **Newly Conserved**

Newly Conserved lands include approximately 704 acres of foraging habitat and 31 acres of potential nesting habitat for Gnatcatcher. Habitat management may entail some temporary impacts to foraging habitat. Up to 51 acres of foraging habitat would be removed in the area designated for the SBVWCD’s Phase 3 water conservation facilities (see Figure 4). No adverse impacts to nesting habitat are anticipated. There is a high likelihood that the nesting habitat ultimately will support Gnatcatchers.

### **Additionally Managed**

There are approximately 587 acres of foraging habitat and no acres of potential nesting habitat on the Additionally Managed lands. Habitat management may entail some impacts to foraging habitat. A portion of the area designated for the SBVWCD's Phase 3 facilities includes Additionally Managed Lands, and Gnatcatcher foraging habitat would be affected if the facilities are developed in that area. .

### **Mining Impact Area**

The Mining Impact Area includes approximately 435 acres of foraging habitat and 8 acres of potential nesting habitat for Gnatcatcher. Although some of the foraging habitat will remain in setbacks within the impact area, all 435 acres are counted as "taken." All of the potential nesting habitat will be removed. It is not anticipated that the potential nesting habitat will be used by Gnatcatchers for nesting prior to its removal. This assumption is based on the fact that the habitat does not have the characteristics of known nesting habitat adjacent to the plan area. Sage scrub and other suitable foraging habitat will be restored onsite as part of mine reclamation.

### **Road Impact Area**

The Road Impact Area includes approximately 17 acres of foraging habitat and no potential nesting habitat for Gnatcatcher. All of the foraging habitat is counted as "taken."

### **Other SBVWCD Lands**

Other SBVWCD Lands include approximately 449 acres of foraging habitat and no potential nesting habitat for Gnatcatcher. Some O&M activities may entail temporary impacts to foraging habitat adjacent to existing facilities. The Phase 2 water conservation facilities would remove up to 92 acres of foraging habitat. It is anticipated that the habitat on these lands will continue to support foraging Gnatcatchers and play a role in Gnatcatcher dispersal.

### **Other Flood Control Lands**

These lands include approximately 348 acres of foraging and 9 acres of potential nesting habitat. Some O&M activities may entail temporary impacts to foraging and potential nesting habitat adjacent to existing facilities. Gnatcatchers are known to occur on these lands and adjacent lands to the south.

### **Other Lands**

Other Lands include approximately 34 acres of foraging and no potential nesting habitat for Gnatcatcher. No removal of Gnatcatcher foraging habitat on Other Lands is anticipated under the HCP.

### **WSPA**

The WSPA includes approximately 530 acres of foraging and no potential nesting habitat for Gnatcatcher. No impacts to Gnatcatcher habitat in the WSPA would occur under the HCP.



## **Highland Mitigation Lands**

There are approximately 14 acres of foraging habitat and no potential nesting habitat for Gnatcatcher on the Highland Mitigation Lands. No impacts are anticipated under the HCP.

## **Critical Habitat**

There is no designated critical habitat for Gnatcatcher in or adjacent to the plan area.

## **4.4 Woollystar**

Individual Woollystar will be destroyed in connection with covered activities. Woollystar in 438 known locations would be removed. The number of plants removed cannot be estimated with reasonable certainty based on past surveys and records of occurrence.

### **4.4.1 Potential for Covered Activities to Result in Take**

#### **Direct Harm**

Individual Woollystar would be destroyed by grubbing, grading, and inundation of areas where this species occurs.

#### **Disruption of Essential Behaviors/Functions**

None of the covered activities would alter conditions in ways that would disrupt pollination, germination, or dispersal of Woollystar.

#### **Isolation of Population**

There is low-to-no probability that covered activities would result in the isolation of Woollystar populations in the plan area. It is possible that small clusters of Woollystar might remain within undisturbed portions of the Mining Impact Area and would be isolated from the main populations in the plan area.

#### **Habitat Loss**

Woollystar Habitat will be removed in connection with the expansion of mining operations and, to a lesser degree, the road projects and the Phase 2 and 3 water conservation facilities.

#### **Habitat Degradation or Fragmentation**

Habitat degradation could result from the effects of land disturbance and related activities, including spread of non-native plant species, changes in hydrology, and changes to natural fire regimes. The covered activities would not fragment areas with known populations of Woollystar.

#### **Increased Risk of Predation**

Not applicable.

## **Adverse Modification of Critical Habitat**

Critical habitat for Woollystar has not been designated.

### **4.4.2 Estimated Impacts by Plan Area Subcomponent**

#### **Newly Conserved**

Newly Conserved lands include at least 553 locations where Woollystar have been recorded. Habitat management of Newly Conserved lands may entail some take and temporary habitat impacts to Woollystar. There is a low probability that the SBVWCD's Phase 3 water conservation facilities would affect Woollystar, which occur on the edges on the area designated for the facilities.

#### **Additionally Managed**

Additionally Managed lands include 521 locations where Woollystar have been recorded. Habitat management may entail some take and temporary habitat impacts to Woollystar. There is a low probability that the SBVWCD's Phase 3 water conservation facilities would affect Woollystar, which occur on the edges on the area designated for the facilities.

#### **Mining Impact Area**

The Mining Impact Area includes 434 locations where Woollystar have been recorded. All Woollystar in the impact area are counted as "taken. It is possible that some Woollystar would remain within setbacks and other non-disturbed areas.

#### **Road Impact Area**

The Road Impact Area includes 4 locations where Woollystar have been recorded. Based on the records of occurrence, the road projects may entail impacts to individual Woollystar. It is not anticipated that an entire population or cluster would be removed by the road projects.

#### **Other SBVWCD Lands**

Other SBVWCD Lands include 58 locations where Woollystar were recorded. O&M of existing facilities would not entail impacts to Woollystar. There is a low-to-no probability that Phase 1 or Phase 2 water projects would impact Woollystar.

#### **Other Flood Control Lands**

Other Flood Control Lands include 62 locations where Woollystar have been recorded. Some O&M activities may entail impacts to individual Woollystar adjacent to existing facilities. O&M would not remove a population or cluster of Woollystar.

#### **Other Lands**

There are 9 locations on Other Lands where Woollystar have been recorded. No impacts to Woollystar on Other Lands are anticipated under the HCP.

## **WSPA**

There are 478 locations in the WSPA where Woollystar have been recorded. No take of Woollystar within the WSPA would occur under the HCP.

## **Highland Mitigation Lands**

There are no records of Woollystar occurrence on the Highland Mitigation Lands. No impacts would occur (no Woollystar).

## **Critical Habitat**

Critical habitat has not been designated for Woollystar.

# **4.5 Spineflower**

Covered activities potentially would affect all Spineflower that are not on conserved lands in the plan area (i.e., Spineflower in areas outside of WSPA and Additionally Managed or Newly Conserved lands). The number of plants removed cannot be estimated with reasonable certainty based on past surveys and records of occurrence.

## **4.5.1 Potential for Covered Activities to Result in Take**

### **Direct Harm**

Individual Spineflower would be destroyed by grubbing and grading of areas where this species occurs.

### **Disruption of Essential Behaviors/Functions**

None of the covered activities would alter conditions in ways that would disrupt pollination, germination, or dispersal of Spineflower.

### **Isolation of Population**

By removing some known locations and suitable habitat for Spineflower, the covered activities could be viewed as contributing to the isolation of the Spineflower population that will be conserved in the plan area. However, Spineflower is not broadly distributed in the plan area or elsewhere.

### **Habitat Loss**

Expansion of the mining operations will result in the loss of known occupied habitat. There is a low probability that covered activities in the Road Impact Area also would result in habitat loss.

### **Habitat Degradation or Fragmentation**

Habitat degradation could result from the effects of land disturbance and related activities, including spread of non-native plant species, changes in hydrology, and changes to natural fire regimes. The remaining areas of Spineflower habitat would not be fragmented by covered activities.

### **Increased Risk of Predation**

Not applicable.

### **Adverse Modification of Critical Habitat**

Critical habitat has not been designated for Spineflower.

## **4.5.2 Estimated Impacts by Plan Area Subcomponent**

### **Newly Conserved**

Only limited surveys for Spineflower have occurred on Newly Conserved Lands; there is one record of Spineflower occurrence from 1997. There is low-to-no probability that Spineflower habitat would be adversely affected by covered activities on Newly Conserved lands, including habitat management and the SBVWCD's Phase 3 water conservation facilities.

### **Additionally Managed**

There are 46 records of Spineflower occurrence on Additionally Managed lands. Management of these lands and implementation of the Spineflower relocation and habitat enhancement program identified in the Wash Plan will entail modifications of Spineflower habitat. However, no net loss of Spineflower is expected as a result of covered activities on these lands.

### **Mining Impact Area**

There are 42 records of Spineflower occurrence in the Mining Impact Area. Take of the concentration of Spineflower between existing quarries would be avoided pending the outcome of the Spineflower relocation and enhancement program. It is assumed that all Spineflower within the Mining Impact Area ultimately would be removed.

### **Road Impact Area**

There is one record from 1999 of Spineflower occurrence in the Road Impact Area.

### **Other SBVWCD Lands**

There is one record of Spineflower occurrence on Other SBVWCD Lands from a 2006 survey of BLM ownership. Most these lands have limited potential for Spineflower occurrence. O&M of existing facilities would not affect any known Spineflower location. There is a low-to-no probability that development of the Phase 1 or Phase 2 water conservation facilities would result in the loss of Spineflower.

### **Other Flood Control Lands**

There are no records of Spineflower and limited potential for Spineflower occurrence on these lands. No impacts to Spineflower are expected from O&M activities.

### **Other Lands**

There is one record of Spineflower occurrence on Other Lands. No take of Spineflower on Other Lands would occur under the HCP or ITP.

### **WSPA**

There are 18 records on Spineflower occurrence in the WSPA. No take of Spineflower within the WSPA would occur under the HCP or ITP.

### **Highland Mitigation Lands**

There are no records of Spineflower occurrence on the Highland Mitigation Lands. No impacts would occur (no Spineflower).

### **Critical Habitat**

Critical habitat has not been designated for Spineflower.

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## Chapter 5

# Conservation Program

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This chapter presents the conservation program that the covered parties will implement for SBKR, Gnatcatcher, Woollystar, and Spineflower in the plan area to avoid, minimize, monitor, and mitigate the effects of incidental take of these species and contribute to their survival and recovery.

## 5.1 Biological Goals

As stated in the Addendum to the HCP Handbook, biological goals are the broad, guiding principles for the operating conservation program of the HCP; are the rationale behind the minimization and mitigation strategies; should be commensurate with the specific impacts and duration of the applicant's proposed action; and may be either habitat or species based (65 FR 106: 35242-35257). Habitat-based goals are expressed in terms of amount and/or quality of habitat. Species-based goals are expressed in terms specific to individuals or populations of that species.

For this HCP, the following habitat- and species-based goals have been identified:

- Goal 1: Conserve habitats in the plan area in a configuration that will sustain populations of SBKR, Woollystar, and Spineflower while also supporting Gnatcatcher and other special status species.
- Goal 2: Conserve habitat linkages across and to areas outside the plan area in order to provide connectivity between populations of covered species and provide opportunities for wildlife movement through the Wash.
- Goal 3: Conserve at least one acre of SBKR habitat for each acre removed by covered activities, and provide for the management of at least two acres (including the acres conserved) for each acre removed.
- Goal 4: Conserve at least as many Woollystar locations as are removed by covered activities, and provide for the management of those locations and suitable Woollystar habitat outside the WSPA in the plan area.
- Goal 5: Mitigate the effects of Spineflower take and contribute to the recovery of Spineflower through the implementation of a Spineflower relocation and enhancement program in cooperation with USFWS and CDFG.
- Goal 6: Conserve foraging and nesting habitat for Gnatcatcher within the plan area.
- Goal 7: Control the spread of non-native invasive plant species within the plan area and enhance the habitat conserved under the HCP for the covered species by removing such non-native invasive plants.

## 5.2 Habitat Conservation and Management

SBVWCD and the other participating agencies will provide for the permanent conservation and management of approximately 735 acres (the Newly Conserved Lands on Figure 2) and provide for the enhanced management and monitoring of an additional 598 acres (the Additionally Managed Lands on Figure 2). The Newly Conserved and Additionally Managed Lands are contiguous with one another and with the WSPA. They also maintain north-south habitat linkages across the plan area and to natural open space outside the plan area to the southeast and northwest. Table 5-1 indicates estimated take in relation to the Newly Conserved and Additionally Managed Lands.

## 5.3 Adaptive Management and Monitoring Program

Because of the cryptic nature of SBKR, Woollystar, and Spineflower, management and monitoring of populations and habitat conditions will require a special approach. Details of the ongoing programs for SBKR, Woollystar, and Spineflower will be developed and field-tested over the first five years of HCP implementation through a combination of HCP-sponsored work and cooperative efforts with USFWS, CDFG, BLM, and USACE. Gnatcatcher management and monitoring will not require extraordinary measures and will be coordinated with the special programs for the other three species. The measures for the covered species will be identified in an Adaptive Management and Monitoring Plan (AMMP) initiated in year 2 of HCP implementation and completed no later than year 5.

The AMMP will cover management and monitoring in five-year increments and will be updated every three years. It will identify habitat management and monitoring measures to be implemented on Newly Conserved and Additionally Managed Lands over the five-year period, the costs and available funding for the measures, criteria for determining the success of the measures, and – beginning in year five – an evaluation of the effectiveness of the measures implemented to date.

The AMMP measures apply to the Newly Conserved and Additionally Managed Lands within the plan area; they are not prescriptions for activities within the WSPA, which is managed under a separate habitat management plan.

### 5.3.1 SBKR Measures

Management and monitoring measures for SBKR will focus on maintaining and enhancing SBKR habitat, monitoring SBKR occurrence in key locations, maintaining SBKR movement corridors, and other related measures. Figure 11 shows the focus areas for the SBKR management and monitoring activities.

#### **SBKR Habitat Management and Enhancement**

Areas within Newly Conserved and Additionally Managed Lands will be managed and enhanced for the benefit of SBKR, primarily through measures to control non-native grasses and forbs and reducing the density of shrub cover.



**Table 5-1. Newly Conserved Lands and Additionally Managed Lands in Relation to Estimated Impacts**

Covered Species	Estimated Impacts <sup>1</sup>	Conservation/Mitigation			
		On Newly Conserved Lands	On Additionally Managed Lands	Total	
SBKR (acres) <sup>2</sup>					
Habitat with High Suitability	199.99		282.71	314.70	597.41
Habitat with Moderate Suitability	195.36		155.09	200.94	356.03
Habitat with Low Suitability	62.78		297.25	82.67	379.92
Estimated Additional Impacts <sup>3</sup>	153.00		0	0	0
Total	611.13		735.05	598.31	1333.36
Gnatcatcher (acres)					
Foraging Habitat	451.10		704.25	586.50	1290.75
Potential Nesting Habitat	7.72		30.64	0	30.64
Estimated Additional Impacts <sup>3</sup>	153.00		0	0	0
Total	611.82		734.89	586.5	1321.39
Woollystar (# of plants observed/# of Grids Where Observed)					
>50 plants	41		60	55	115
25-50 plants	80		100	64	164
1-25 plants	224		249	182	431
Present, # unknown	93		144	220	364
Total (grids)	438		553	521	1074
Estimated Additional Impacts	Low Probability <sup>4</sup>		0	0	0
Spineflower					
Records of occurrence	43		1	46	47
Estimated Additional Impacts	Low Probability <sup>5</sup>		--	--	--

**Notes**

<sup>1</sup> Impact estimates for SBKR and Gnatcatcher were calculated based on the amount of habitat for each species in the Mining Area and Road Impact Area. For SBVWCD's water conservation projects, the impact cap identified in the Wash Plan EIR was used as the estimate (143 acres). For SBCFCD's O&M, 10 acres was used as the estimate.

<sup>2</sup> Acres of habitat per suitability category as modeled for the entire plan area (see Appendix C).

<sup>3</sup> Includes 143 acres for SBVWCD Phase 2 and 3 water conservation projects and 10 acres for SBCFCD O&M.

<sup>4</sup> There is a low probability that SCVWCD's water conservation projects would result in take of Woollystar because of the known location of Woollystar in relation to the overall area where the projects ultimately will occur. Some flood control O&M activities may entail impacts to individual Woollystar adjacent to existing facilities; flood control O&M would not remove a population or cluster of Woollystar.

<sup>5</sup> There is one record of Spineflower occurrence on Other SBVWCD Lands from a 2006 survey of BLM ownership. Most these lands have limited potential for Spineflower occurrence. There is a low-to-no possibility that SBVWCD O&M of or the water conservation projects would result in the loss of Spineflower. There are no records of Spineflower and limited potential for Spineflower occurrence on SBCFCD lands, and no impacts to Spineflower are expected from flood control O&M activities.

**Figure 11. Focus Areas for SBKR Management and Monitoring Program**

### **Controlling Non-Native Grasses and Forbs**

Efforts to control of non-native grasses and forbs will be planned and conducted in phases. In the first year of HCP implementation, SBKR habitat on Newly Conserved and Additionally Managed Lands will be assessed for the occurrence of non-native grasses and forbs and sites will be identified and prioritized for management. Where possible, sites will be identified that include both SBKR and Woollystar habitat. The assessment will be conducted using aerial imagery and in field observations. Criteria for ranking sites, the methods to be used at each site, and criteria for evaluating the success of the measures will be subject to review by USFWS.

Implementation will be scheduled so that management measures have been initiated in the highest priority sites no later than year three of HCP implementation. The effectiveness of measures applied to an individual site will be evaluated and changed as needed if monitoring data for two consecutive years indicate that success criteria are not being met. The overall effectiveness of the measures in maintaining and enhancing habitat for SBKR will be evaluated after the highest priority sites have been managed and monitored for five years.

### **Reducing Shrub Cover**

Reducing the density of shrub cover in select areas has the potential to maintain or re-establish conditions suitable for SBKR on Newly Conserved and Additionally Managed Lands, especially in areas no longer scoured by flood events. Potential sites for shrub cover reduction will be identified at the same time as the assessment of SBKR habitat for non-native grasses and forbs. Three sites will be selected as study plots for testing and refining shrub removal techniques. Criteria for selecting study plots, the methods to be used at each plot, and criteria for evaluating the success of the measures will be subject to review by USFWS. The implementation of measures on the study plots will be initiated no later than year three of HCP implementation. The effectiveness of the techniques in maintaining or re-establishing conditions suitable for SBKR will be evaluated after the study plots have been managed and monitored for five years. If the evaluation demonstrates that the technique is effective, the measures will be applied to other sites. The other sites will be selected based on criteria determined as part of the five-year evaluation.

### **SBKR Population Monitoring**

SBKR occurrence on some Newly Conserved and Additionally Managed Lands is not well known. Trapping will occur in select areas during the first three years of HCP implementation, so that management goals and strategies can be more clearly defined. The recommended methodology is to use a series of small 5×5 grids (25 total traps per grid) set at 7-meter spacing; the “footprint” of each grid would be 28 meters × 28 meters (= 784 m<sup>2</sup> or 0.784 ha).

A method for ongoing monitoring of SBKR populations on Newly Conserved and Additionally Managed Lands will be developed and submitted to USFWS for review no later than year 5 of HCP implementation. Methods may include but are not limited to establishment of monitoring plots and/or presence/absence surveys.

## Monitoring and Maintaining SBKR Movement Corridors

SBKR movement corridors are essential to the dispersal of SBKR into areas of suitable habitat as seral stages change and to the genetic health of the local SBKR population. Two types of management actions will be applied to Newly Conserved and Additionally Managed Lands to ensure that SBKR can move across the landscape, especially between Plunge Creek and the Santa Ana River:

1. Managing long-linear strips of habitat to maintain relatively open conditions conducive to SBKR movement; and
2. If feasible, re-establishing a movement corridor over D-dike.

To maintain or replicate corridor conditions, management measures will be used to remove grasses and forbs and reduce shrub cover in long linear strips. There will be larger patches of suitable habitat where SBKR could reside along the linear strip. The strips would be at least as wide as the average dirt road (which are known to be used SBKR), approximately 7 meters in width, with live-in patches of suitable habitat at least 15 meters x 15 meters in size and spaced at least every 100 meters (the distance SBKR can move within a single evening). The ultimate goal would be to increase movement of SBKR between two larger occupied areas that may be currently separated by less suitable habitat. A study "strip" for this technique will be identified as part of the vegetation and species occurrence database updates in year three of HCP implementation. Criteria for selecting the study strip, the methods to be applied, and criteria for evaluating success will be subject to review by USFWS. The measures will be initiated at the study strip no later than year five of HCP implementation, and their effectiveness will be evaluated after the strip has been managed and monitored for five years. If the evaluation demonstrates that the technique is effective, the measures will be applied to other sites.

Once vegetation management techniques have been applied to the southeast trending corridor between Plunge Creek and the Santa Ana River, one or more crossings of D-dike will be considered. Based on conceptual plans, the crossing(s) would need to be approximately 10 meters wide, constructed of a suitable sandy substrate, and strategically placed where trapping results indicate presence of SBKR and/or where historical scouring has occurred. A native seed mix would be applied to achieve sparse vegetative cover. Although there are several potential designs for crossing D-dike, the simplest may be to create an earthen land bridge with a perpendicular culvert underneath to allow unrestricted flow of percolation water. Figure 11 shows potential locations for crossings. The SBVWCD will consult with a qualified SBKR biologist and USFWS to select a corridor design that is cost-effective and biologically functional. Final decisions regarding the corridor(s) across D-dike would not occur until year 10 of HCP implementation (or later).

## SBKR Habitat Suitability Model Update and Evaluation

The SBKR habitat suitability model will be used in connection with assessing habitat conditions and monitoring plan implementation, with the model's databases and parameters updated and refined as needed. The first update and evaluation will occur when the vegetation database for the plan area has been updated. Criteria for evaluating the effectiveness of the model will be

established as part of the AMMP. The efficacy of the model as a planning and monitoring tool will be evaluated at least every five years.

### **5.3.2 Gnatcatcher Measures**

Management of Gnatcatcher foraging habitat will occur as part of non-native controls and related measures for SBKR and Woollystar. If nesting Gnatcatchers occur in the plan area, an adaptive management program to maintain and potentially expand nesting habitat will be developed and implemented. The nesting habitat management program will be subject to review by USFWS.

### **5.3.3 Woollystar Measures**

The focus of the AMMP for Woollystar is managing non-native grasses and forbs and ongoing monitoring of Woollystar populations.

#### **Woollystar Habitat Management and Enhancement**

Management of Woollystar habitat will include the control measures for non-native grasses and forbs identified for SBKR. An assessment of non-native grass and forb occurrence will be conducted at the same time as the SBKR habitat assessment, and sites will be identified and prioritized for management. Where possible, sites will be identified that include both SBKR and Woollystar habitat. The assessment will be conducted using aerial imagery and in field observations. Criteria for ranking sites, the methods to be used at each site, and criteria for evaluating the success of the measures will be subject to review by USFWS. Implementation and evaluation of the measures in Woollystar habitat will occur in the same time-frame and manner as the measures in SBKR habitat.

#### **Woollystar Population Monitoring**

Grids previously surveyed on Newly Conserved and Additionally Managed Lands will be selected for ongoing monitoring of Woollystar populations. The process and criteria for selecting the monitoring grids and the monitoring data to be collected will be provided to USFWS and CDFG for review no later than year 5 of HCP implementation. Monitoring will begin no later than year 6 of plan implementation.

### **5.3.4 Spineflower Measures**

The focus of the AMMP for Spineflower is maintaining existing populations on Additionally Managed Lands (and any found on Newly Conserved Lands) and initiating implementation of the relocation and enhancement program.

#### **Spineflower Data Collection**

Some Newly Conserved and Additionally Managed Lands have not been surveyed for Spineflower. To help guide management and monitoring decisions, Spineflower surveys will be conducted by a qualified botanist in those areas prior to the application of any habitat

management techniques to those areas. All such surveys will be completed no later than year 3 of HCP implementation.

### **Spineflower Relocation and Enhancement Program**

Working in cooperation with BLM, USFWS, and CDFG, test plots will be identified on Additionally Managed Lands (and on Newly Conserved Lands, if Spineflower are found there) for Spineflower relocation and habitat enhancement techniques. The study design will be developed based on the recommendations prepared by USFWS for the Wash Plan in 2007, with refinements made based on consultations with CDFG and other experts on Spineflower. A five-year study will be conducted to determine if relocation and enhancement show adequate promise to be accepted by USFWS and CDFG as feasible conservation and mitigation measures for impacts to Spineflower. Development of this program is part of the mitigation for the impacts to Spineflower from the incidental take allowed during the first five years of implementation. The measures identified through the program will be the measures applied as mitigation for incidental take of the previously-avoided Spineflower in the Mining Impact Area.

### **Spineflower Population Monitoring**

Monitoring plots will be established at the same time that study plots are identified for the relocation and enhancement program. The process and criteria for selecting the monitoring plots and determination of the monitoring data to be collected will be developed in cooperation with USFWS and CDFG; collection of data at the plots will begin no later than year 5 of plan implementation.

## **5.4 GIS Database and Vegetation Map Updates**

A GIS database for management and monitoring will be established and maintained for the duration of HCP implementation. The database will include but not be limited to property ownership, conservation easements, utility and road easements and rights of way, existing facilities and land uses, plan area boundaries, the boundaries of plan area subcomponents, vegetation types, species occurrence records, watersheds, location of monitoring and study plots, areas where habitat has been removed by covered activities, areas where habitat has been enhanced under the HCP, and other information relevant to plan implementation.

The vegetation database will be updated based on an infield assessment and use of aerial imagery within three years of plan and ITP approval. Thereafter, the vegetation data base will be updated at least every five years. Species occurrence layers will be updated as new data become available, with the update made on a scheduled basis and at least annually.

## **5.5 Impact Avoidance and Minimization Measures**

To avoid and minimize actual instances of take and reduce the effects of unavoidable take, the following measures will apply to covered activities in the plan area.

1. Prior to land disturbance in a designated impact area, the covered party will be responsible for the following measures as applicable:
  - a. Conduct surveys for Spineflower if suitable habitat is present and the area has not been surveyed for Spineflower;
  - b. Provide USFWS and CDFG with the opportunity to collect Woollystar seed and salvage Spineflower for the relocation program; and
  - c. Identify sensitive resources adjacent to the impact area and use onsite monitors and temporary fencing to prevent impacts to those resources
2. Take of Spineflower in the center of Section 11 in the Mining Area (between the existing quarries) shall be avoided until USFWS and CDFG have determined that the Spineflower enhancement and relocation program is successful or decide to modify or abandon the program. If the program is successful, take of the previously avoided Spineflower will be mitigated through implementation of the applicable relocation and enhancement measures. If the program is abandoned or modified, take from that point on will be mitigated through measures determined in cooperation with USFWS and CDFG at that time. Failure of the Spineflower enhancement and relocation program will constitute a Changed Circumstance.
3. The SBVWCD's Phase 2 and 3 water conservation projects will be planned and designed to limit total habitat impacts to 31% of the total acreage within each Phase (92 and 51 acres, respectively) and to avoid impacts to Spineflower (if found to occur in the areas).
4. All covered mining activities shall be conducted within the Mining Impact Area; impacts shall not extend into adjacent habitat, regardless of whether the adjacent habitat is conserved or not.
5. All covered road and bridge projects improvements shall be conducted within the Road Impact Area; impacts shall not extend into adjacent habitat, regardless of whether the adjacent habitat is conserved or not.
6. O&M activities by the SBVWCD and SBCFCD within the plan area shall be conducted to minimize the potential for direct harm to individual SBKR or Gnatcatcher that might be incidentally present.
7. If a covered activity would entail vegetation clearing or ground disturbance in an area with Gnatcatcher foraging or nesting habitat. Gnatcatcher surveys will be conducted in the nesting season prior to the proposed activity. If Gnatcatcher nests are found in or near the impact area for the covered activity, vegetation clearing and ground disturbance will not be allowed during the Gnatcatcher breeding season (mid-February through mid-August) and may not proceed until after fledging occurs or it is demonstrated that the nest(s) have failed.
8. Vehicular traffic off of maintained roads in Newly Conserved and Additionally Managed areas will be restricted to daylight hours to avoid road kill of SBKR, except for emergency response.

9. New and improved roads and bridges will be limited to those identified in the list of covered activities (see Table 1-1).
10. Public trails will make use of existing roads and pathways to the maximum extent possible.
11. Covered activities on Newly Conserved and Additionally Managed Lands will be conducted to avoid take of covered species to the maximum extent possible, and the habitat impacts on these lands resulting from the SBVWCD's Phase 3 water conservation facilities shall not exceed 52 acres.
12. Implementation of the impact avoidance and minimization measures will be overseen by a biological monitor with qualifications acceptable to USFWS and CDFG (also see "Compliance Monitoring and Reporting").

## 5.6 Compliance Monitoring and Reporting

This HCP must be monitored over time to determine if implementation measures are achieving goals and objectives of the Plan. Two tracking processes will be undertaken: impacts and biological monitoring. Results of these efforts will be discussed at annual coordination meetings and in annual public reports.

### 5.6.1 Tracking of Conservation and Impacts

The SBVWCD as Program Administrator will be responsible for the annual accounting of the acreage, type, and location of vegetation communities conserved and impacted by permitted land uses and other activities within the plan area. Records will be maintained in a GIS database.

### 5.6.2 Annual Reporting

An annual public report will be prepared and distributed that will demonstrate compliance with the terms and conditions of the HCP, ITP, and IA. Amendments or administrative corrections will also be reported.

Annual reports will be prepared and submitted to USFWS by October 31 of each year to evaluate compliance with the HCP and to determine if the goals and objectives of the HCP are being met. These reports will include:

1. Results of the monitoring and management program for the covered species;
2. Habitat impacts from covered activities in the prior year;
3. Progress made in meeting the biological goals and objectives of the HCP;
4. Any instances of non-compliance with the terms of the ITP;
5. An accounting of expenditures and available funds for HCP implementation; and
6. Problems or issues identified during implementation and the steps taken or recommended to address them.



A copy of the report will be provided to CDFG.

If, after 10 years, the goals and objectives are being met, reporting can be decreased to every five years, with approval from USFWS.

## 5.7 Responses to Changed Circumstances

Changed circumstances are defined under the federal “No Surprises” Rule as “changes in circumstances affecting a species or geographic area covered by a conservation plan that can reasonably be anticipated by plan developers and the USFWS and that can be planned for.” Pursuant to the “No Surprises” Rule (50 C.F.R. § 17.22(b)(5)(ii)), the USFWS may not require (1) any conservation or mitigation measures in addition to those provided in the HCP in response to a Changed Circumstance or (2) additional conservation or mitigation measures for any Changed Circumstance not identified in the HCP without the consent of the plan participants, provided the HCP is being properly implemented. As recognized in the “No Surprises” Rule (50 C.F.R. § 17.22(b)(6) and 17.32(b)(6)), the USFWS, federal agency, state agency, local agency, or private entity may take additional actions at their own expense to protect or conserve a covered species within the plan area.

Preventative measures and responses to Changed Circumstances are generally addressed through the adaptive management programs of this Plan. The adaptive management program requires monitoring of species and habitat conditions, with a management response to observed threats. In anticipating and reacting to Changed Circumstances, adaptive management allows for revisions to the operating conservation program, thereby enhancing future strategies for the conservation of species and their habitat. Changed Circumstances allow specific triggers and management actions to be applied to foreseeable threats.

### 5.7.1 Climate Change

There are scientific data indicating that alteration of the atmosphere is causing changes in climate, including increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising sea levels. In California, it is anticipated that there will be warmer temperatures (Cayan et al. 2006), greater extremes in weather, and larger variation between wet and dry years (Franco 2005) but precipitation patterns are more difficult to project (Lenihan et al. 2006). Higher nighttime temperatures are predicted, perhaps altering days of frost, daily temperature extremes, and distribution of some species (IPCC 2007). Some of the most dramatic potential climate change impacts include increased frequency and severity of extreme events, such as heat waves, wildfires, and flooding (Lenihan et al. 2006, IPCC 2007). To accommodate shifts in distribution, species will need a range of large core habitat areas connected by landscape-level linkages (Franco 2005). The species most at risk are those that have specific habitat requirements, have limited ability to relocate, or are surrounded by development (leaving few relocation options) (NPS 2006).

Although the extent and nature of impacts from climate change within the plan area are unknown, some climatic models suggest that there may be changes in vegetation patterns and increases in wildfire size and frequency (Franco 2005).

Adaptive management may be needed to minimize catastrophic disturbance and preserve functional ecosystems.

### **5.7.2 Fire**

A repetitive fire that results in or substantially increases the risk of type conversion constitutes a changed circumstance. The USFWS has indicated that for coastal sage scrub and riparian habitat, repeat fires within the same footprint within 10 years of the original burn can adversely hamper natural regrowth and interrupt the ability of the habitat to rejuvenate. Diffendorfer et al. (2007) cite several sources that indicate fire cycles of one to three years within coastal sage scrub can increase the presence of exotic weeds and lead to conversion to grassland. Ten years after a fire, shrub dominated habitat types are expected to be fully re-established and capable of natural regeneration.

Based on the extent and severity of damage from a repetitive fire, specific adaptive management tasks will be identified and implemented. Natural regrowth within the damaged area will be monitored and measures to control invasion of exotic plant species, excessive erosion, and and/or type conversion will be applied as part of AMMP implementation.

### **5.7.3 Drought**

For the purpose of defining Changed Circumstances, drought is defined as climatic drought of 5 to 10 years in length, as declared by the California State Department of Water Resources and/or the SBVWCD. Longer periods of drought are considered unforeseen circumstances.

Depending upon the extent and severity of the drought, a specific adaptive management action plan will be developed and implemented. Management activities may include controlling non-native weeds and other invasive species as part of AMMP implementation.

### **5.7.4 Flood**

A 100-year flood event as classified by the Federal Emergency Management Agency (FEMA) and determined by the SBCFCD constitutes a changed circumstance under this HCP.

A 100-year flood has a chance of occurring in a 50-year period and is, therefore, reasonably foreseeable during the life of the ITP. However, flooding is a natural event and is not anticipated to cause sufficiently severe damage that would prevent natural regeneration within the preserve. If the extent and severity of flood damage indicate a need for monitoring or management, measures will be identified and applied as part of AMMP implementation.

### **5.7.5 Invasion of Invasive Exotic Species**

For the purpose of defining Changed Circumstances, invasion of invasive exotic species is defined as an introduction of a species within conserved habitat that has either: (a) not previously been known to occur in the plan area and has been noxious elsewhere; or (b) is a particularly noxious variety of non-native species that is resistant to typical control measures. Unforeseen circumstances would be defined as invasion within a preserve of a species not

currently known to be a noxious elsewhere, but that becomes so upon introduction to the preserve.

When invasive species are discovered, actions designed to reduce such species will be applied. If an unanticipated invasion by exotic species occurs as a result of another Changed Circumstance identified in this section, USFWS will be notified. The damage caused by the unanticipated invasion by exotic species will be addressed as follows: The invasive species will be mapped and their abundance at each location will be noted;

- Actions to improve habitat conditions and reduce the threat(s) will be implemented; ]
- The response of species/habitats to the action(s) taken will be monitored.

If the influx of invasive species involves a species included on the California Invasive Plant Council (CalIPC) "List A" or state or federal "noxious" weeds, USFWS and CDFG will be notified and a plan of action will be determined within 30 days of such notice.

### **5.7.6 Future Listings of Non-Covered Species**

In the event that a species which is not a covered species under this HCP is listed by the USFWS subsequent to the issuance of the ITP, such listing will be considered a Changed Circumstance. Appropriate action to avoid take of the newly listed species or to add the species to the HCP and ITP through the amendment process will be taken.

### **5.7.7 Failure of Spineflower Enhancement and Relocation Program**

Failure of the Spineflower Relocation and Enhancement Program will be considered a Changed Circumstance. Criteria for determining what would constitute failure of the Spineflower program will be identified in the detailed plans for the program. Actions to reduce take or provide for additional management of known populations will be considered.

## **5.8 Responses to Unforeseen Circumstances**

Unforeseen circumstances are events or changes in circumstances affecting a species or geographical area covered by an HCP that cannot be reasonably anticipated and that result in a substantial and adverse change in the status of the covered species. (All reasonably foreseeable changes or events are addressed under "Responses to Changed Circumstances"). In the event that an unforeseen circumstance occurs during implementation of the HCP, the SBVWCD shall immediately notify USFWS. In determining whether the event triggers the need for responses, USFWS shall consider, but not be limited to, the following factors: size of the current range of the affected species; percentage of range adversely affected by the HCP; percentage of range conserved by the HCP; ecological significance of that portion of the range affected by the HCP; level of knowledge about the affected species and the degree of specificity of the species' conservation program under the HCP; and whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

If USFWS determines that additional conservation and mitigation measures are necessary to respond to the unforeseen circumstance where the HCP is being properly implemented, the additional measures required of the permittee must be as close as possible to the terms of the original HCP and must be limited to modifications within conserved habitat area or to adjustments within lands or waters that are already set-aside in the HCP's operating conservation program. Additional conservation and mitigation measures shall involve the commitment of additional land or financial compensation or restrictions on the use of land or other natural resources otherwise available for development or use under the original terms of the HCP only with the consent of the permittee.

## **5.9 Amendment Procedures**

### **5.9.1 Amendments to the ITP**

During the specified permit period, amendment of the ITP would be required for any of the following changes:

- Significant revision of the permit area boundary;
- The federal listing of a species not currently addressed in this HCP that may be taken by covered activities;
- Modification of any important project action or mitigation component under the HCP, including funding, that may significantly affect authorized take levels, effects of the project, or the nature or scope of the mitigation program; or
- Any other modification of the project likely to result in significant new adverse effects to the covered species not addressed in the approved HCP.

### **5.9.2 Amendments to the HCP**

This HCP may, under certain circumstances, be amended without amending its associated permit, provided that such amendments are of a minor or technical nature and that the effect on the species involved and the levels of take resulting from the amendment does not exceed that described in the approved HCP.

To amend the HCP without amending the permit, the permittee must submit to USFWS in writing a description of the proposed amendment, an explanation of why the amendment is necessary or desirable, and an explanation of why the effects of the proposed amendment are believed not to be significantly different from those described in the approved HCP. If USFWS concurs with the amendment proposal, it shall authorize the HCP amendment in writing, and the amendment shall be considered effective upon the date of USFWS's written authorization.

### **5.9.3 Permit Renewal**

Upon expiration, the Section 10 (a)(1)(B) permit may be renewed. At least thirty (30) days prior to the expiration of either permit, the SBVWCD shall submit to USFWS, in writing:

- A request to renew the permit, with a reference to the original permit number;
- Certification that all statements and information provided in the original HCP and permit application, together with any approved HCP amendments, are still true and correct, or inclusion of a list of changes;
- A description of what take has occurred under the existing permit; and
- A description of which covered activities are still to be completed, if applicable, or what activities under the original permit the renewal is intended to cover.

## 5.10 Institutional Structure

Implementation of the HCP will proceed under the following institutional and administrative arrangements:

1. Consistent with its role as the entity responsible for coordinating implementation of the Wash Plan, the SBVWCD shall be the Program Administrator for HCP implementation and shall administer the Section 10(a)(1)(B) permit and Section 7 incidental take authorization.
2. In its capacity as Program Administrator, the SBVWCD shall provide for an HCP Implementation Team to administer the HCP. The HCP Implementation Team shall consist of an Executive Director, Habitat Conservation Program Manager, Biological Consultants, and a Wash Plan Advisory Committee.
  - a. The General Manager for the SBVWCD shall serve as the Executive Director, and will be responsible for overall administration of the HCP program, including preparation of the annual budget, submittal of annual reports to USFWS and CDFG, maintenance of all program records, and serve as chairperson of the Advisory Committee. The Executive Director will ensure that there is full compliance by all parties covered by the 10a Permit with the terms and conditions of the ITP.
  - b. The Habitat Conservation Program Manager shall be responsible for overseeing development and implementation of the management programs for conserved habitat, preparation of annual reports, consultation with the USFWS and CDFG as needed, preparation of annual work programs and the completion of implementation actions in fulfillment of HCP commitments. The Program Manager will oversee any and all consultant work performed to implement the HCP programs.
  - c. Biological Consultants shall be retained to provide required technical assistance in the development and implementation of the adaptive management and monitoring programs and compliance with habitat management measures, species surveys and other biological oriented activities.
  - d. The Wash Plan Advisory Committee shall include representatives of the covered parties and one at-large member. The USFWS, CDFG, BLM, and a WSPA Management Committee representative will participate as ad hoc members. The Committee will provide advice to the SBVWCD on HCP activities.

3. With regard to the authorizations for incidental take, the SBVWCD shall be the permittee for the ITP and non-federal project proponent for the Section 7 take authorization statement. Take associated with Section 7 authorizations involve Wash Plan activities on federal land administered by the BLM. These activities consist of: a) construction of Phase III water conservation facilities, b) modifications to “D-Dike” for SBKR corridor movement and c) in cooperation with the cities, establishing hiking/interpretive trails within existing disturbed alignments. The authorization for incidental take would be conditioned on preservation of the proposed Newly Conserved Lands under conservation easements or comparable arrangements, execution of an agreement between the SBVWCD and BLM and other entities as needed regarding the Additionally Managed Lands, and ensuring compliance with permit terms and conditions by each covered party.
4. All covered parties (i.e., all entities covered by the authorizations for incidental take) will be required to notify the SBVWCD of specific activities covered by the ITP and Section 7 take authorizations prior to performing ground disturbing work. Covered parties will provide a certification with the terms and conditions of the ITP attesting to the party’s performance in compliance with ITP requirements. Covered parties will identify the lands where the impacts will occur, the required impact avoidance and minimization measures, the process by which the measures will be implemented, and post-impact monitoring requirements. The information on the certification will be reviewed for conformance with the approved HCP by the Executive Director. Certifications will be included in the annual reports submitted to the USFWS and CDFG.
5. Implementation of the HCP will be overseen by the Wash Plan Advisory Committee. All meetings of the Advisory Committee shall be open to the public.
6. USFWS, CDFG, and BLM shall provide technical advice to the HCP Implementation Team and HCP Advisory Committee and shall participate in meeting discussions and program review.
7. Time deadlines for review periods, responses to required consultations, and coordination of activities will be spelled out in the IA.
8. Implementation of the HCP will be planned and conducted under annual and five-year work plans prepared by the Executive Director with the assistance of the Habitat Conservation Program Manager and approved by the Advisory Committee and the SBVWCD’s Board of Directors. The five-year work plans will identify administrative, management, monitoring, and other tasks required during the period, cost estimates for the work in each year, and funding projections for the period. The annual work plans will specify tasks for the year and a line-item budget. The first five-year plan will be adopted within two years of plan and ITP approval. Annual work plans will guide implementation on a yearly basis. Thereafter, the five-year work plan will be updated every three years. The schedule for approval of the annual and five-year work plans shall coincide with the SBVWCD’s adoption of its annual work program and budget.

## 5.11 Funding Requirements, Sources, and Assurances

### 5.11.1 Implementation Costs

#### Start-up Costs (Years 1-5)

Estimated start-up and initial administrative costs (Table 5-2) are based on the following assumptions:

1. The Executive Director and Habitat Conservation Program Manager would be SBVWCD employees. The Executive Director position would constitute approximately 20% of the General Manager's position. The Habitat Conservation Program Manager would be either a regular or contract employee.
2. Office space and equipment would be provided by the SBVWCD during the start-up period;
3. The labor costs of preparing annual reports and work plans, activity certificates, and staffing Advisory Committee meetings would be covered by the funds allocated for HCP implementation;
4. The first three years of HCP implementation would focus on development of the SBKR, Woollystar, and Spineflower management and monitoring programs; and the required field work would be conducted by biological consultants under the direction of the Habitat Conservation Program Manager, and cooperative efforts with USFWS, CDFG, and BLM;
5. Key data collection and planning tasks would be completed in years 4 and 5, and the focus of implementation would shift to management and monitoring under organized programs;
6. The cost of project-level compliance would be assured solely by the SBVWCD; and
7. To provide for contingencies, a reserve fund equal to 15% of the estimated 5-year costs would be established.

**Table 5-2. Estimated Start-up Costs (Years 1-5)**

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
<b>Staffing</b>						
Ex. Director	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$150,000.00
HCP Manager	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$375,000.00
<b>Program Development</b>						
SBKR	\$35,000	\$35,000	\$25,000	\$20,000	\$20,000	\$135,000.00
Woollystar	\$15,000	\$15,000	\$10,000	\$5,000	\$5,000	\$50,000.00
Spineflower	\$25,000	\$25,000	\$25,000	\$20,000	\$20,000	\$115,000.00
GIS Database	\$15,000	\$10,000	\$10,000	\$5,000	\$5,000	\$45,000.00
AMMP Preparation	\$10,000	\$10,000	\$10,000	0	0	\$30,000.00
Subtotal	\$100,000	\$95,000	\$80,000	\$50,000	\$50,000	\$375,000
<b>AMMP Implementation</b>						
Habitat Mgmt	\$10,000	\$10,000	\$20,000	\$35,000	\$50,000	\$125,000.00
Subtotal	\$10,000.00	\$10,000.00	\$20,000.00	\$35,000.00	\$50,000.00	\$125,000.00
<b>Contingency Reserve (15% of 5-year Total)</b>						\$153,750
<b>Total Start-up Costs</b>						\$1,178,750

## Implementation Costs Years 6-10

The estimated cost of program implementation in years 6-10 (Table 5-3) is based on the following assumptions:

1. Staffing requirements and costs would be the same as during start-up;
2. The focus of the program would be on management and monitoring activities on Newly Conserved and Additionally Managed Lands, guided by 5-year work plans and the programs developed during start-up;
3. The cycle of plan and database updates would begin in years 6-10; and
4. The cost of program implementation would continue to be assured by the SBVWCD; and
5. To provide for contingencies, a reserve fund equal to 15% of the estimated 5-year costs would be maintained.



**Table 5-3. Estimated Costs Years 6-10**

	Year 6	Year 7	Year 8	Year 9	Year 10	Total
<b>Staffing</b>						
Ex. Director	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	\$150,000
HCP Manager	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$375,000
<b>Plan and Database Updates</b>						
	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$75,000
<b>Habitat Management and Ongoing Monitoring</b>						
	\$115,000	\$115,000	\$115,000	\$115,000	\$115,000	\$575,000
Subtotal	\$235,000	\$235,000	\$235,000	\$235,000	\$235,000	\$1,175,000
<b>Contingency Reserve (15% of 5-year Total)</b>						\$161,250
<b>Total Estimated 5-Year Costs after Start-up</b>						\$1,236,250

## Implementation Costs after Year 10

It is anticipated that 5-year implementation costs after Year 10 decline relative to the costs of the first 10 years. Data collection and studies required for special AMMP measures for SBKR and Spineflower will be completed by Year 10 (or sooner), and effective, cost-efficient programs for ongoing management and monitoring will be in place. For purposes of estimating total implementation costs, it is assumed that 5-year costs in the second decade of implementation would be 30% lower than the Year 6-10 costs or approximately \$865,375 per 5-year period; 5-year costs in the remainder of the permit period would be 50% lower or approximately \$618,215 per 5-year period. Based on these estimates, implementation costs for Years 11-50 would be approximately \$5,439,500 (not adjusted for inflation).

### 5.11.2 Funding Sources

The cost of plan implementation will be shared by the covered parties, based on the formula identified in the IA. In addition, the HCP Implementation Team will seek monitoring and research grants from government, non-profit, and private sources.

### 5.11.3 Funding Assurances

As an assurance that adequate funding is available for plan implementation, the covered parties will establish and maintain a fund adequate to cover the first five-years of program implementation. Based on the estimated costs, the initial fund will be approximately \$1.3 million.

## Chapter 6

# Alternatives Considered

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As part of the development of this HCP, multiple alternatives were considered regarding ways to avoid take of listed species and other conservation strategies. The primary alternatives considered and the reasons why each alternative was not selected are as follows.

### Complete Avoidance of Take

Under this alternative, activities in the Wash Plan Area would be conducted to avoid take of SBKR, Gnatcatcher, Woollystar, and Spineflower. Because of the broad distribution of SBKR and Woollystar, complete avoidance of take of all listed species would require substantial changes to existing and future O&M activities and to the design and implementation of planned projects in the Wash by all of the proposed covered parties. The impracticality of this alternative was the trigger for preparation of the Wash Plan as well as this HCP. The alternative was rejected in favor reconciling land use and species/habitat conservation goals for the Wash and seeking authorization for incidental take.

### No Take of Spineflower

Of the four proposed covered species, Spineflower is the most at risk. The plan area is one of only eight remaining locations for this narrow endemic plant species and one of only two locations in San Bernardino County. Further, the cryptic nature of this plant and limitations on what is known about why it occurs in certain areas make it difficult to plan for its conservation or to identify effective mitigation for impacts. Excluding Spineflower from the list of species covered by the plan and authorizations for take was considered in the early stages of HCP preparation but was rejected in favor of the approach developed in cooperation with USFWS and CDFG. That approach conditions take of Spineflower on the successful development of a relocation and habitat enhancement program for Spineflower in the Wash as part of HCP implementation. Because of the known and potential occurrence of Spineflower on lands that would be managed under the HCP, development of the relocation and enhancement program has the potential to directly contribute to the recovery of this species. In that context, a limited amount of incidental take could occur without posing jeopardy to the species.

### Reduced Take of SBKR and Woollystar

Under this alternative, impacts to SBKR and Woollystar would be reduced either by setting a limit on the acres of habitat or number of individuals taken or by limiting the size and location of the areas where take could occur in connection with mining and the SBVWCD's proposed water conservation projects (the two covered activities that would entail substantial impacts to both species). Limits on the size and locations of impact areas were considered in detail in the Wash Plan EIR, which analyzed a reduced mining area impact area, alternate locations for mining operations, and alternate plans for the water conservation projects. These options were

1 rejected in favor of increasing the amount of conservation in proportion to take and creating a  
2 Wash-wide preserve system for these species by adding conserved lands in areas adjacent to  
3 the WSPA.

## 4 **Comprehensive Multiple Species Conservation Program**

5 Under this alternative, an NCCP or other comprehensive multiple species conservation program  
6 would be prepared and implemented for the plan area instead of the HCP for the four listed  
7 species. This approach was considered at several stages in the planning process, and a  
8 preliminary draft of a multiple species HCP was prepared while the Wash Plan was being  
9 completed. The decision to focus on the four listed species was a matter of expediting  
10 implementation of the Wash Plan rather than a rejection of a multiple species conservation  
11 strategy. Nothing in the HCP for the four species precludes a multiple species program for the  
12 Wash. Further, implementation of the HCP will be coordinated with the Wash Plan HEP and the  
13 USACE's proposed MHMP for the WSPA.

## Chapter 7

# References

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**Adaptive Management** – A decision process that promotes flexible decision making, which can be adjusted in the face of uncertainties as outcomes from management actions and other events are better understood. Careful monitoring of these outcomes advances scientific understanding and allows for the adjustment of policies and/or operations as part of an interactive learning process. Adaptive management also recognizes the importance of natural variability in contributing to ecological resilience and productivity.

**California Environmental Quality Act** – California Public Resources Code 21000 21177 et seq., including all regulations promulgated pursuant to that Act.

**California Endangered Species Act** – California Fish and Game Code section 2050 et seq., including all regulations promulgated pursuant to that Act. CESA prohibits CDFG from authorizing any Incidental Take of a state-listed threatened or endangered species if that take would jeopardize the continued existence of the species; all impacts to state-listed species must be fully mitigated.

**Changed Circumstances** – Changes affecting a species or geographic area covered by the Plan that can reasonably be anticipated and planned for by Plan developers and the USFWS.

**Clearing** – The removal of natural vegetation by any means, including brushing and grubbing.

**Conserve** – To protect land for its natural resource values.

**Corridor** – A specific route that is used for movement and migration of species. A corridor may be different from a linkage because it represents a smaller or narrower avenue for movement.

**Covered Activities** – activities in the plan area undertaken by the plan participants and covered by the authorizations for incidental take.

**Covered Species** – Those species within the HCP that will be adequately conserved through implementation of the HCP.

**Developed Land** – Land that has been constructed upon or otherwise covered with a permanent or semi-permanent unnatural surface shall be considered developed (Holland 12000). Regardless of substrate, areas covered by a large amount of debris or other materials may also be considered developed.

**Disturbed Land** – Land which has been significantly modified by previous legally authorized human activity, but continues to retain a soil substrate shall be considered disturbed land (Holland Code 11300). This shall include areas that have been graded, repeatedly cleared for fuel management purposes, and/or experienced recurring use resulting in compacted soils and minimal potential for natural revegetation (i.e., dirt parking lots, incised trails, etc.).

**Edge Effects** – Indirect impacts to a preserve area caused by development adjacent to the preserve area. Indirect impacts can be temporary and/or permanent, such as: drainage, invasive species, lighting, brush management, trails, contour grading and construction/operational noise.

**Emergency** – An event or situation that poses considerable risk to human health and safety. This includes, but is not strictly limited to, loss of human life, property damage, or air and water contamination threatening human health and safety.

**Endangered Species** – A species listed as endangered under the federal Endangered Species Act (ESA) or the California Endangered Species Act (CESA).

**Endangered Species Act** – The federal Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.), including all regulations promulgated pursuant to that Act.

**Fully Protected Species** – Those species listed in Sections 3511 (Fully Protected Birds), 4700 (Fully Protected Mammals), 5050 (Fully Protected Reptiles and Amphibians), and 5515 (Fully Protected Fish) of the California Fish and Game Code that may not be taken or possessed at any time and for which no licenses or permits may be issued for their Take except for collecting these species for necessary scientific research and relocation of the bird species for the protection of livestock.

**Grading** - Any excavating or filling or combination thereof, including the land in its excavated or filled condition according to the County's Grading Ordinance.

**Grubbing** – The removal of natural vegetation by any means, including removal of the root system.

**Incidental Take Permit** – The permit granting take of listed species provided such take is incidental to and not the purpose of the carrying out of an otherwise lawful activity. For purposes of the section 10(a)(1)(B) permit, Incidental Take refers solely to species other than plant species.

**Linkage** – An area of land which supports or contributes to the long-term movement of wildlife and genetic exchange by providing live-in habitat that connects to other habitat areas, including agricultural lands that contribute to wildlife movement.

**Migratory Bird Treaty Act** – The federal Migratory Bird Treaty Act (16 U.S.C. § 701 et seq.), including all regulations promulgated pursuant to that Act.

**Non-native Grassland** – Land which supports non-native grassland (Holland 42200) as generally indicated by the presence of *Avena*, *Bromus*, *Erodium*, *Brassica*, and other annual species.

**Plan Area** – the lands covered by the HCP and its authorizations and requirements.

**Population** – An interbreeding group of individuals of the same species. The geographical limits of a population should be delineated as most appropriate for that species depending on its mobility, method of reproduction, and known distribution. Portions of a population shall generally be determined based on the number of individuals; however, area may be appropriate for some species.

**Rare Species** – A species that exists in such small numbers throughout all or a significant portion of its range that it may become endangered or threatened, as defined by CESA or ESA, if factors affecting its survival worsen.

**Section 10(a)(1)(B) Permit** – A permit issued by the USFWS under section 10(a)(1)(B) of the ESA (16 U.S.C. § 1539(a)(1)(B)) to allow the Incidental Take of Species Adequately Conserved and/or Covered Species, to the extent Take of such species is otherwise prohibited under section 9 of the ESA. The Take of listed plant species is not prohibited under the ESA or authorized under a section 10(a)(1)(B) permit. However, plant species adequately conserved by this Plan are listed in the 10(a)(1)(B) permit in recognition of the conservation measures and benefits provided for them under the Plan and receive assurances pursuant to the USFWS “No Surprises” Rule.

**Section 1600** – Section 1600 of the California Fish and Game Code, which regulates alterations to permanent or intermittent stream courses.

**Section 4(d) Special Rule** – The regulation concerning the California gnatcatcher published by the USFWS on December 10, 1993 (58 Fed. Reg. 65088) and codified at 50 C.F.R. section 17.41(b) pursuant to the ESA which describes one particular set of conditions under which the Incidental Take of the California gnatcatcher in the course of certain land use activities is lawful.

**Section 7** – Section 7(a)(2) of the ESA (16 U.S.C. § 1536 (a)(2)) which requires that any federal agency that permits, licenses, funds, or otherwise authorizes activities that may affect species listed under the ESA consult with the USFWS to ensure that its actions will not jeopardize the continued existence of any listed species or adversely modify the designated critical habitat of a listed species.

**Sensitive Species** – Species which meet any of the following criteria: (1) those species that are included on generally accepted and documented lists of plants and animals of endangered, threatened, candidate, or of special concern by the federal government or State of California; (2) narrow endemic species or sensitive plant species (as defined herein); or (3) those species that meet the definition of “rare or endangered species” under section 15380 of the CEQA Guidelines.

**Suitable habitat** - An area that meets the habitat needs of a species and is likely to be utilized by that species at some point within a 5-year period. If an area appears to contain the appropriate elements for a species and is within dispersal distance of known populations and without substantial barriers, it should be considered suitable unless demonstrated otherwise through appropriate and adequate field surveys.

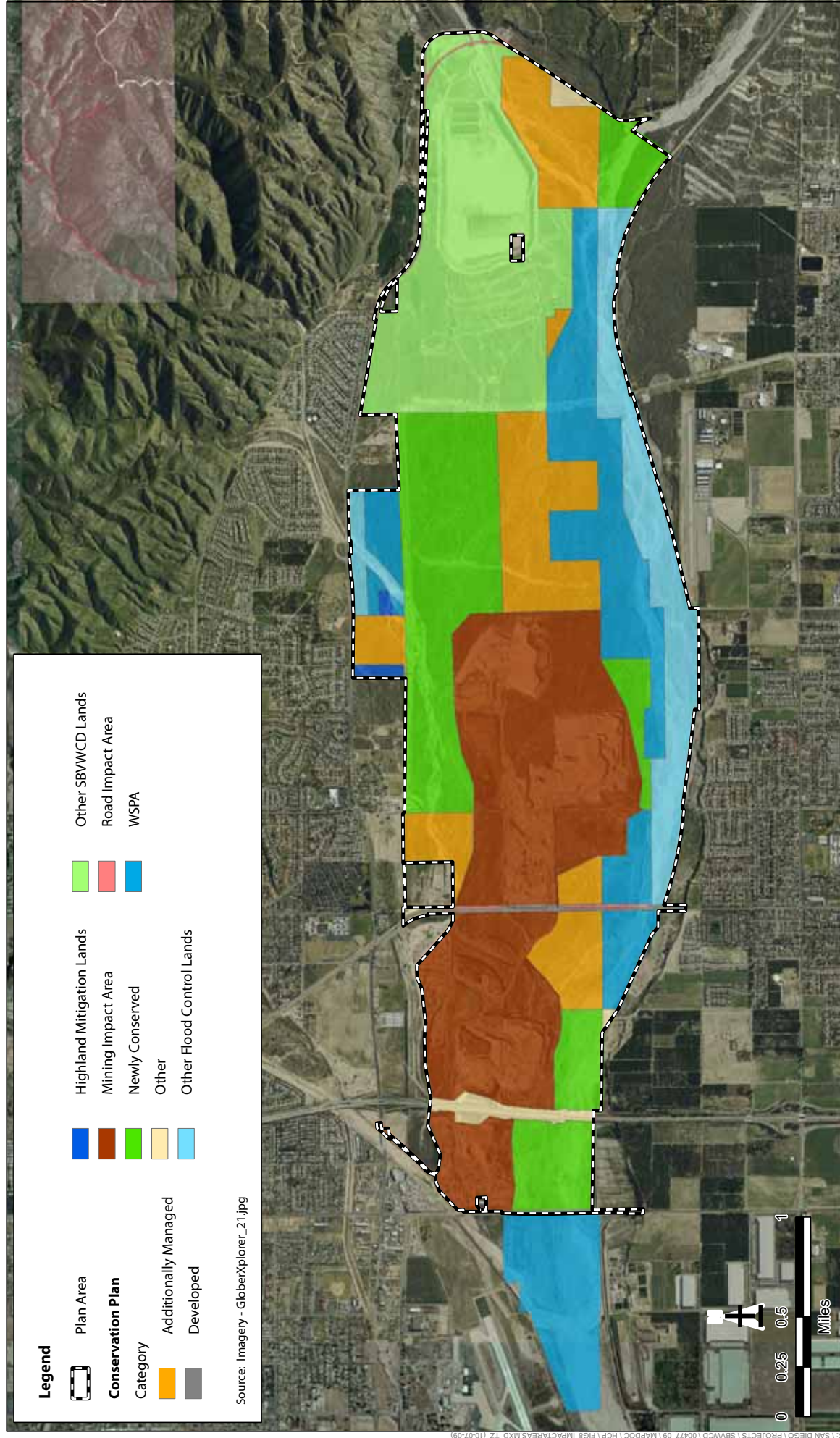
**Take** – Refers to the meaning provided by the ESA and the California Fish and Game Code, including relevant regulations and case law. Under the ESA, “take” is defined as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. § 1532(19)) and “harm” has been further defined to “include any act which actually kills or injures fish or wildlife” including “significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife (40 Fed. Reg. 44412 and 46 Fed. Reg. 54748).

**Take Authorization** – Permit authority granted through a section 10(a)(1)(B) permit pursuant to the ESA, a section 2081 permit granted pursuant to CESA, or a section 2835 permit pursuant to the NCCPA.

**Threatened Species** – A species listed as “threatened” under the ESA or CESA that is likely to become endangered in the foreseeable future.

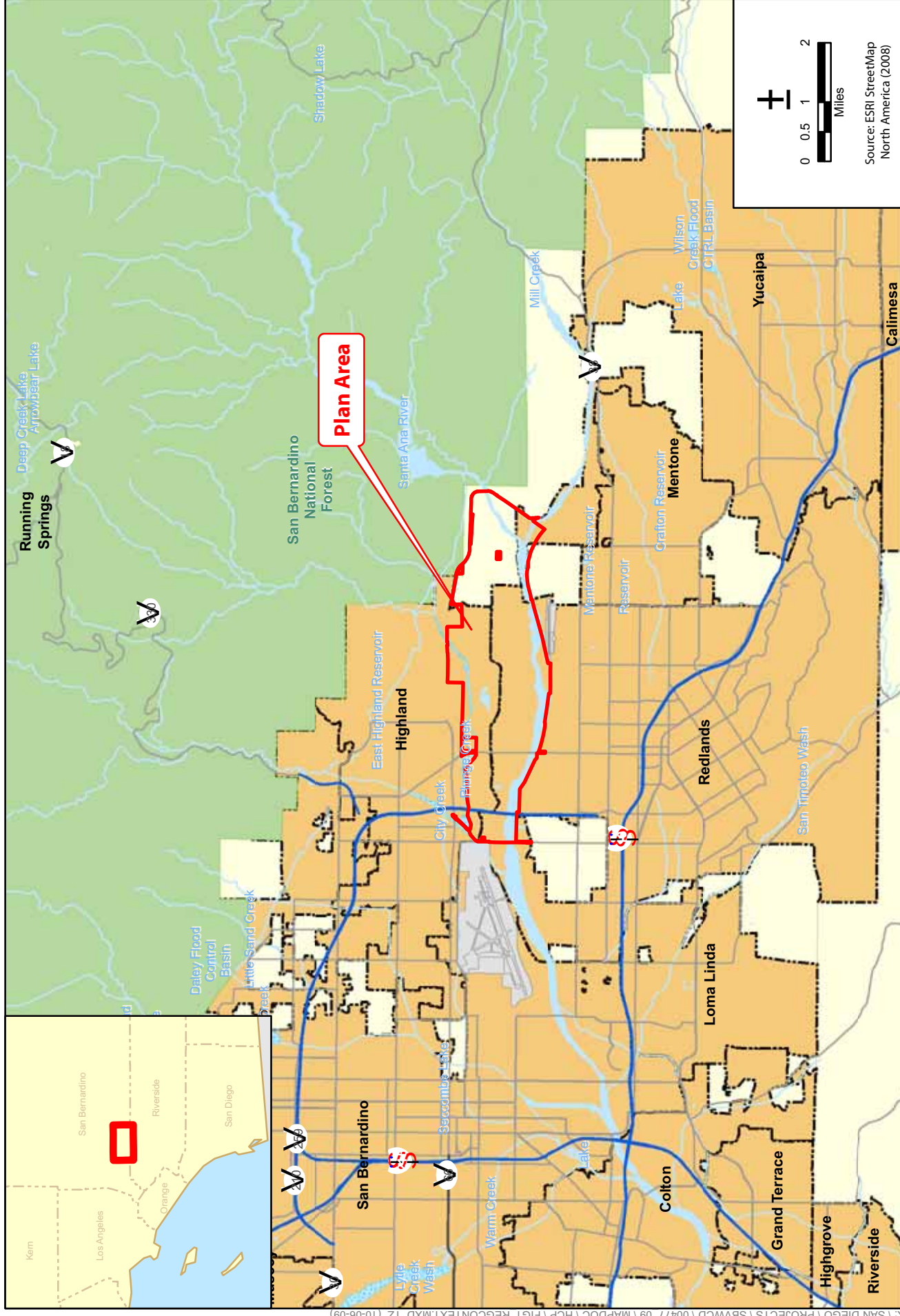
**Unforeseen Circumstances** – Changes in circumstances affecting a species or geographic area covered by the Plan that could not reasonably have been anticipated by Plan developers or the USFWS at the time of the Plan's negotiation and development, which result in a substantial and adverse change in the status of the Covered Species.

**Viable** – Capable of maintaining normal ecosystem functions over the long term (at least 50 years) that sustain a full suite of native or naturalized species without intensive direct human intervention.



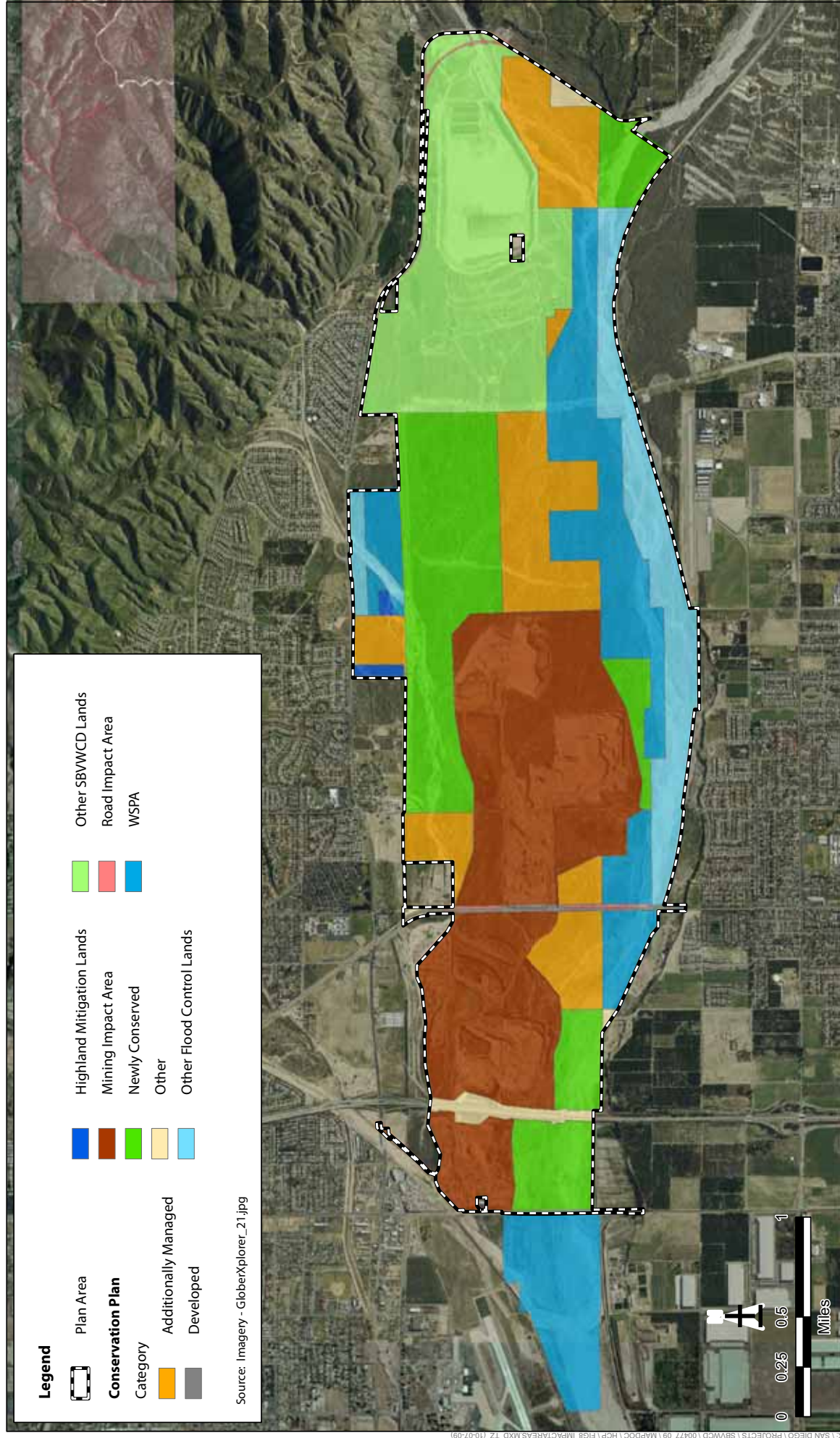
**Figure S-1**  
**Plan Area Subcomponents**  
**Wash Plan HCP**





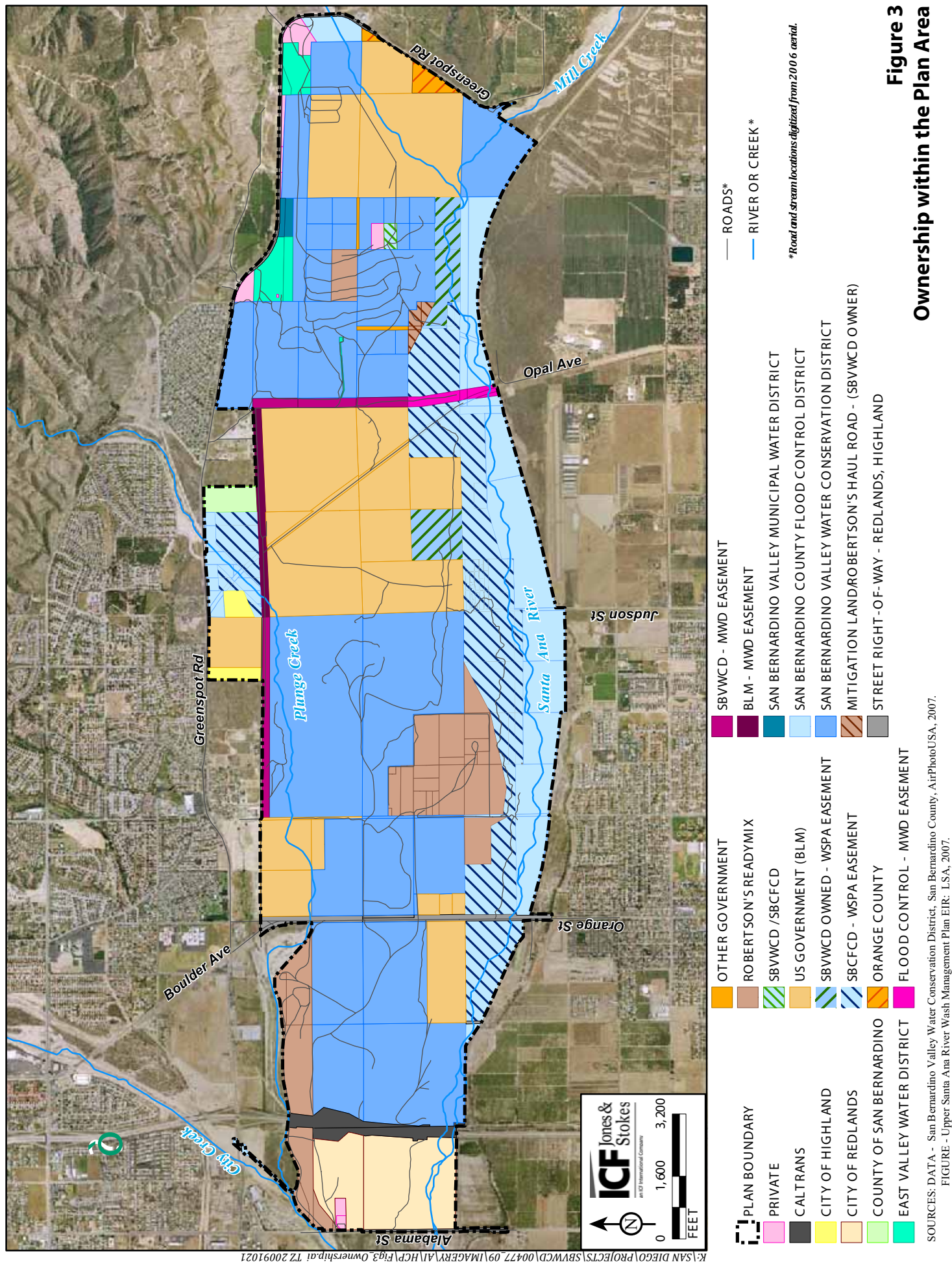
**Figure 1**  
**Regional Context and Plan Area Boundaries**  
**Wash Plan HCP**



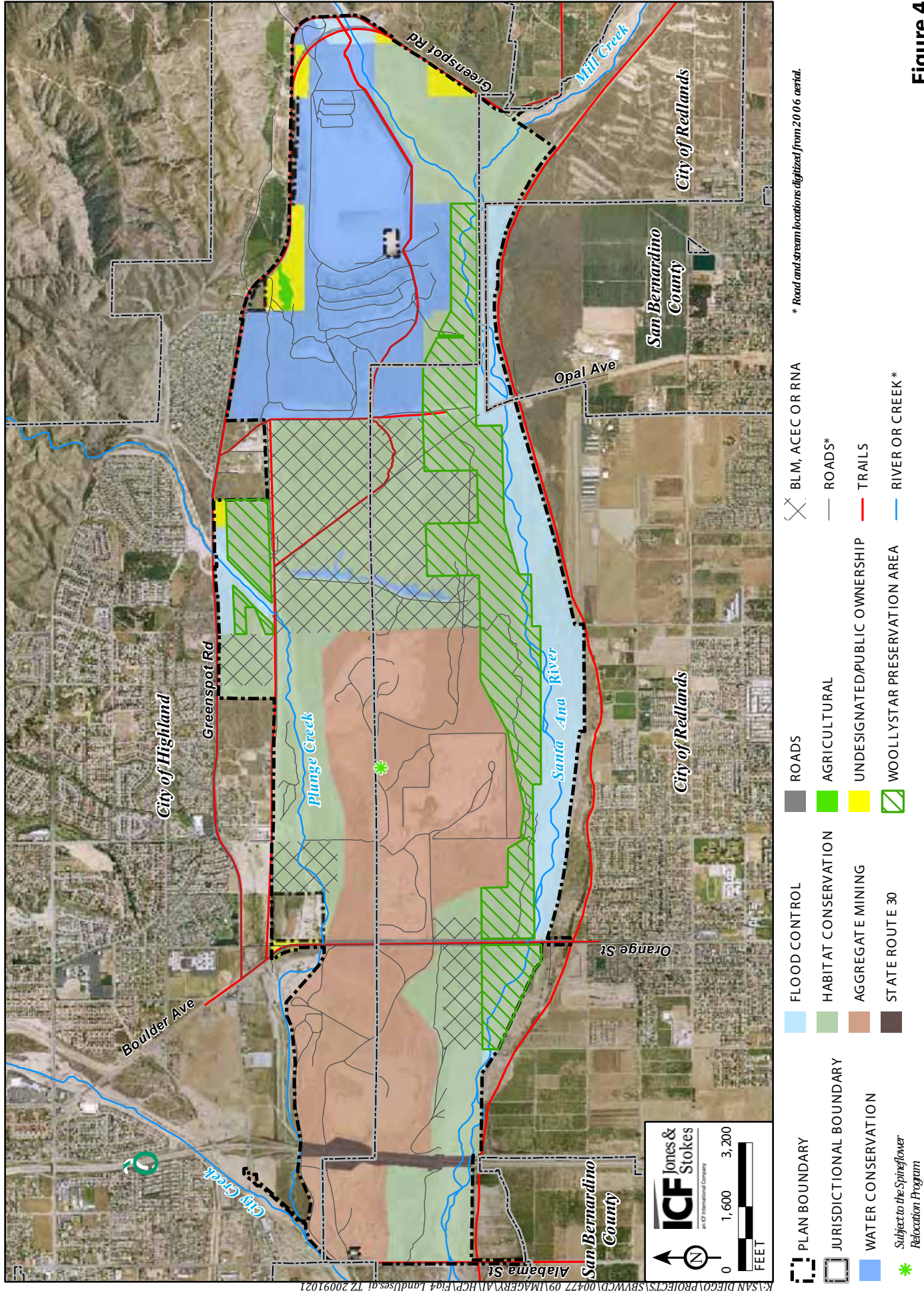


**Figure 2**  
Plan Area Subcomponents  
Wash Plan HCP









SOURCES: DATA - Thomas Bros. 2001, San Bernardino Water Conservation District, Dudek, Santa Ana Watershed Project Authority, AirPhotoUSA, 2007.  
 FIGURE: Upper Santa Ana River Wash Management Plan EIR: LSA, 2007.

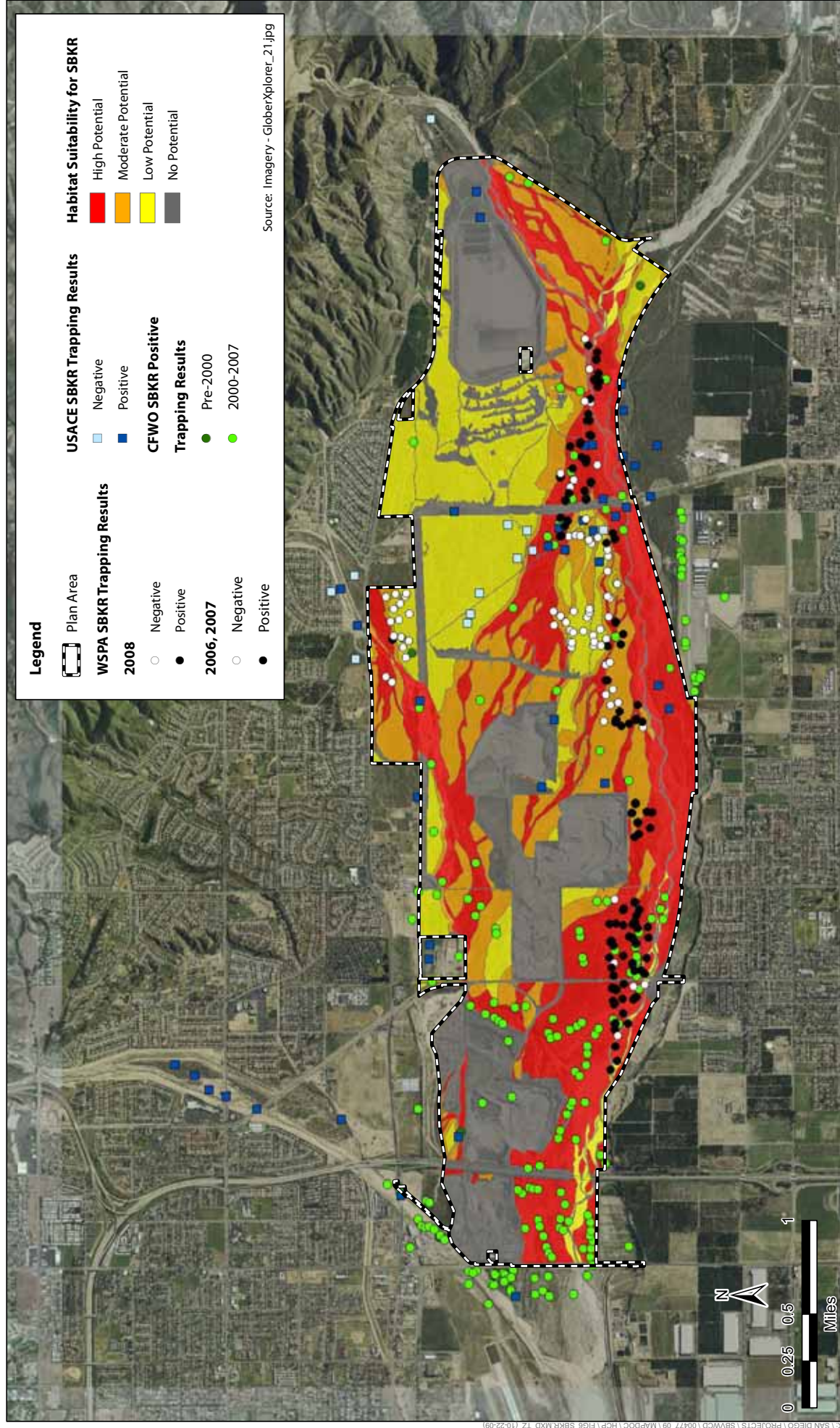
**Figure 4**  
**Land Uses under the Wash Plan**





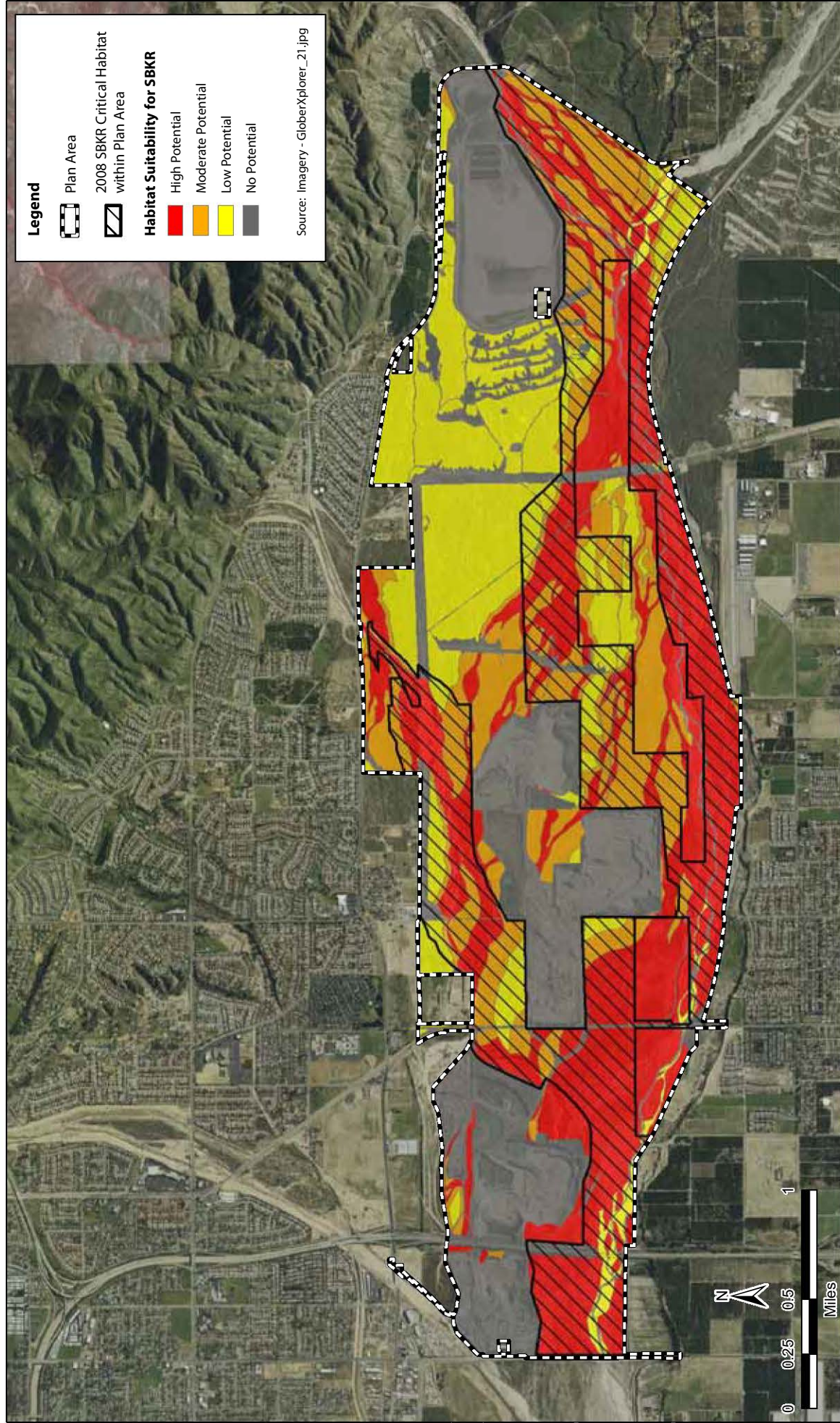
**Figure 5**  
**Vegetation Types in the Plan Area**  
**Wash Plan Area HCP**





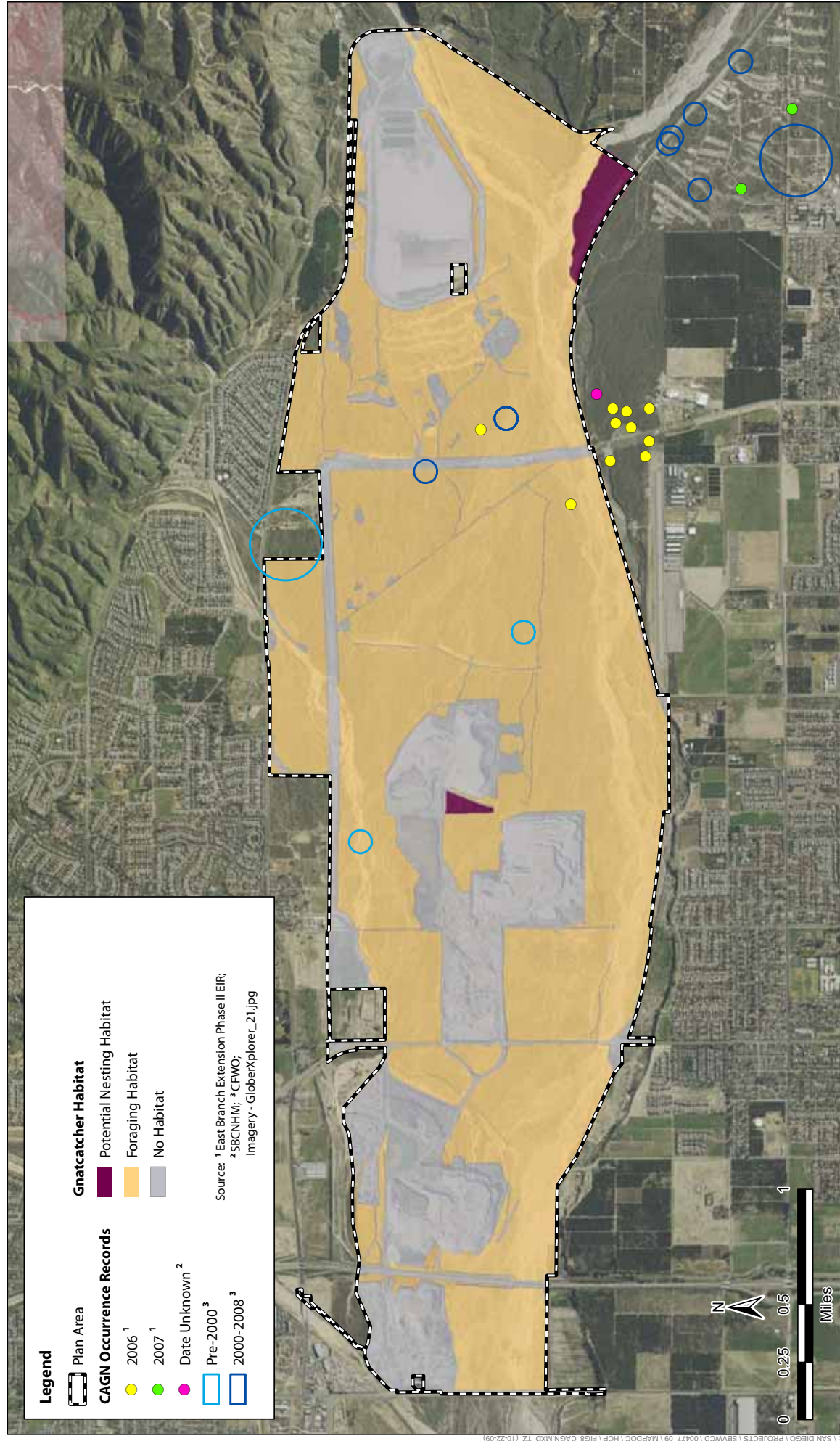
**Figure 6**  
SBKR Habitat Suitability Model Results and Trapping Data  
Wash Plan HCP





**Figure 7**  
**SBKR Critical Habitat**  
**Wash Plan HCP**





**Figure 8**  
California Gnatcatcher Foraging and Potential Nesting Habitat and Occurrence Records  
Wash Plan HCP



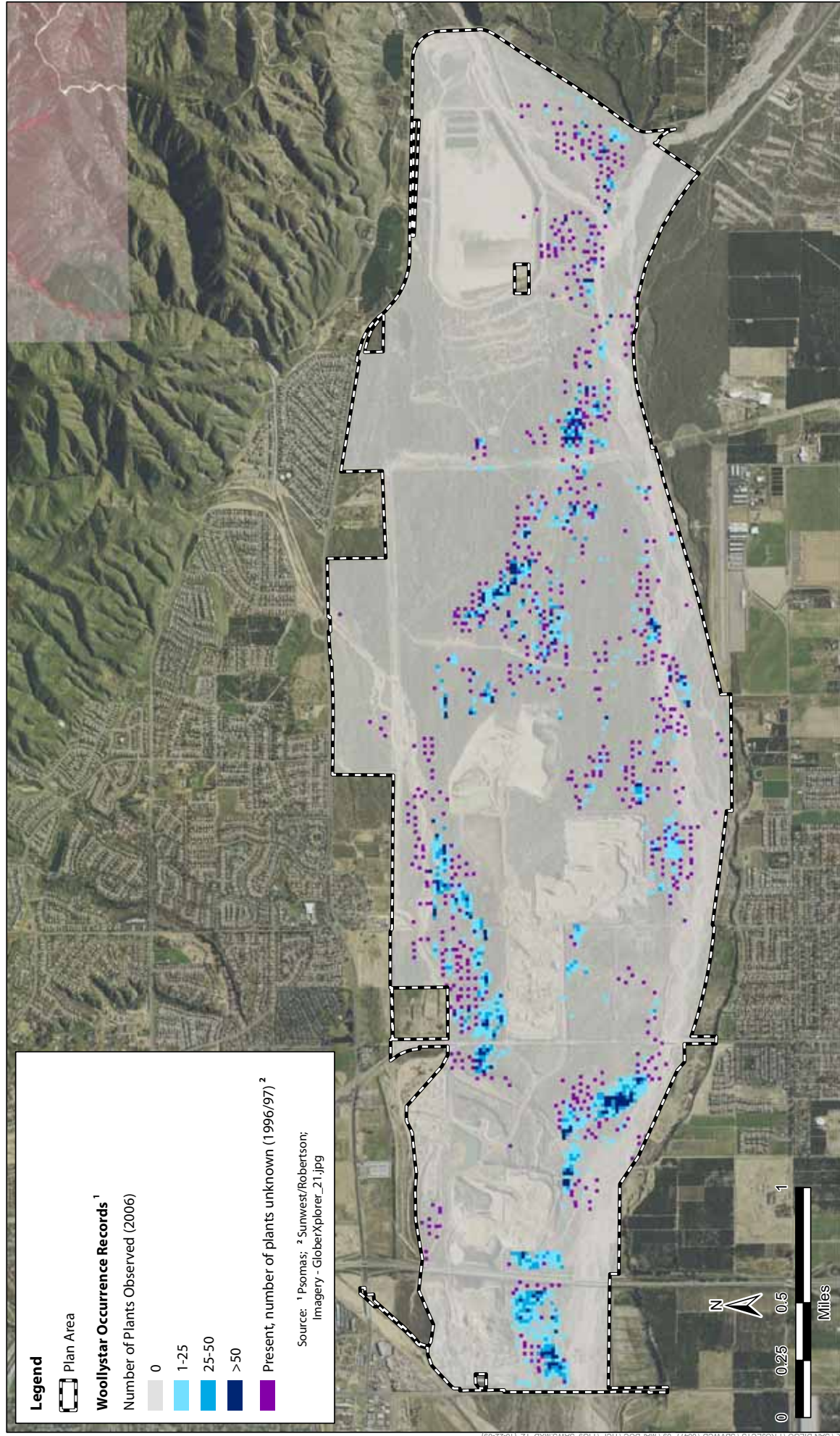


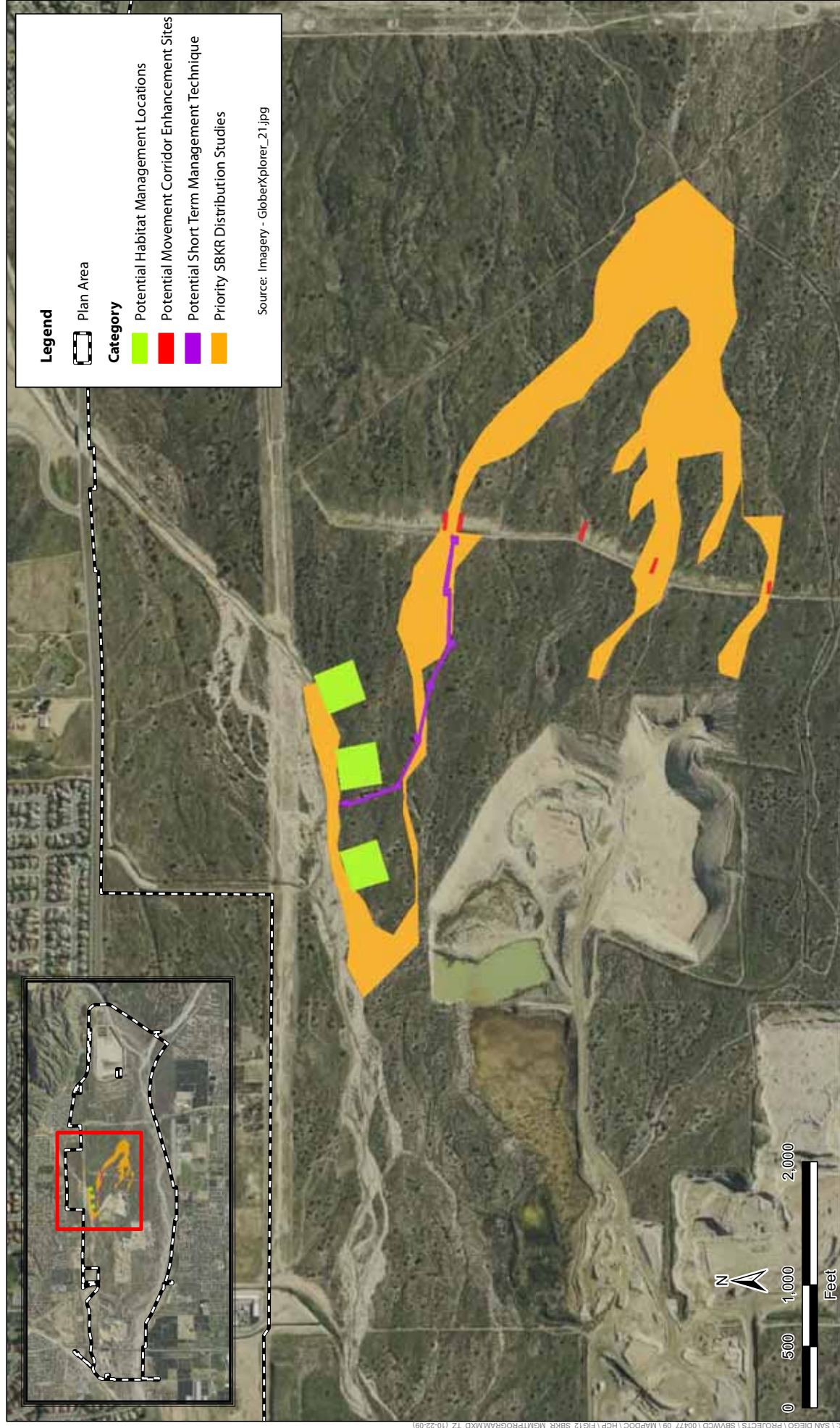
Figure 9  
Santa Ana Woollystar Occurrence Records  
Wash Plan HCP





**Figure 10**  
**Slender-horned Spineflower Occurrence Records**  
**Wash Plan HCP**





**Figure 11**  
**Focus Areas for SBKR Management Program**  
**Wash Plan HCP**



# SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT

Established 1932

1630 West Redlands Boulevard, Suite A  
Redlands, CA 92373-8032  
(909) 793-2503  
Fax: (909) 793-0188

P.O. Box 1839  
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[www.sbvwd.dst.ca.us](http://www.sbvwd.dst.ca.us)

**To: Board of Directors**

**From: Samantha Brown, Finance Supervisor**

**Date: February 10, 2010**

**Subject: Payment of Past Due Invoices on the Wash Plan EIS and HCP**

---

## **RECOMMENDATION**

Staff Recommends the Board approve Payment of Overdue Invoices for the Wash Plan in the amount of \$42,428.99.

## **BACKGROUND:**

District staff recently completed a Wash Plan budget assessment to determine current balances and obligations. The evaluation concluded that there is a cash balance of \$12,522.08 with obligations of \$54,183.85. The District has past due invoices from URS, Corporation in the amount of \$21,450.35 and past due invoices from Jones and Stokes, ICF in the amount of \$32,733.50. These invoices are for work performed by URS through November 2009 and for work performed by Jones and Stokes through November 2009. Staff intends on paying URS \$11,754.86 from cash on-hand in the Wash Plan account for two past invoices, leaving an unpaid amount of \$9,695.49 for one remaining invoice.

The budget assessment identified that one Task Force member, the City of Redlands, has not paid its Wash Plan cost-share neither for the EIS contract nor the HCP contract. The City owes the District \$33,692.86 per previous funding agreements. The City's failure to pay its funding share has created a payment burden on the District. If the City had submitted its funding contribution, cash balance would be \$46,214.94, resulting in a budget deficit of only \$7,968.91 (\$54,183.85 minus \$46,214.94). The approximately \$8,000 deficit appears to be a lack of budget reconciliation; this will be confirmed during the future comprehensive Wash Plan Cost-Effectiveness Evaluation that is currently underway. The issue of City of Redlands non-payment of Wash Plan cost-share commitments will also be addressed in the comprehensive evaluation.

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BOARD  
OF  
DIRECTORS

Richard W. Corneille  
Clare Henry Day

Arnold L. Wright  
John Longville

David E. Raley  
Melody McDonald  
Manuel Aranda, Jr.

GENERAL  
MANAGER

R. Robert Neufeld

## **DISCUSSION**

In order to meet current contractual obligations for work performed on the Wash Plan, the District would pay the outstanding invoices.

1. \$ 9,695.49 to URS for progress work on the Wash Plan EIS
2. \$32,733.50 to Jones and Stokes for progress work on the HCP.

In the FY 09-10 Budget on line item 5081-Wash Plan, the District currently has budgeted \$50,000.00 that currently has been unused.





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[www.sbvwd.dst.ca.us](http://www.sbvwd.dst.ca.us)

To: Board of Directors

Prepared by: Samantha Brown, Finance Supervisor

Date: February 10<sup>th</sup>, 2010

Subject: Wash Plan Financial Analysis

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## **RECOMMENDATION**

The Administrative Committee recommends freezing all activities related to the Wash Plan due to the economic urgency and during that time look into alternative uses of designated plan area.

## **BACKGROUND**

The District is currently the Leader in the Wash Plan Project. The District is undergoing Financial Revisions that may hinder the ability to financially support the Wash Plan.

## **DISCUSSION**

A presentation by Integrated Resource Management on Environmental Mitigation Banking Opportunities will be made. This is one of the proposed alternatives for use of the Wash Plan area.

\*Handouts will be given at the Board meeting.



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[www.sbvwd.dst.ca.us](http://www.sbvwd.dst.ca.us)

To: Board of Directors

Prepared by: Samantha Brown, Finance Supervisor

Date: February 10<sup>th</sup>, 2010

Subject: Budget Revision

---

## **RECOMMENDATION**

Staff recommends that the Board of Directors approve the General Fund Budget Revisions and the Proposed Redlands Plaza Budget, as recommended by the Administrative Committee.

## **BACKGROUND**

This will be the First time the Board has seen a proposed Budget for the Redlands Plaza. All Plaza income and expenses will be categorized in this fund and will no longer reflect on the General Fund. This is the Second Quarterly Budget revision for the FY 2009-2010.

## **DISCUSSION**

The Administrative Committee discussed each line item in the Staff Proposed Budget Revisions and made changes as necessary.

## General Fund 2009-2010 Proposed Budget Revision

Account	Description	Actual 08-'09	Approved 1st quarter 09-10 Revision	Admin Comm Proposed 09-10 Revision	Total Change
<b>INCOME</b>	<b><u>Income</u></b>				
4010	Interest Income LAIF	\$ 195,000.00	\$ 100,000.00	\$ 65,000.00	\$ (35,000.00)
4020	<b>Groundwater Assessment</b>				
4021	8831 AF Ag Water @ \$2.18/AF		\$ 19,252.00	\$ 19,252.00	\$ -
4022	79528 AF Non-Ag @ 7.85/AF		\$ 624,295.00	\$ 624,295.00	\$ -
	<b>Total Groundwater Assessment</b>	<b>\$ 533,000.00</b>	<b>\$ 643,547.00</b>	<b>\$ 643,547.00</b>	<b>\$ -</b>
4030	<b>Mining Income</b>				
4031	Cemex Plant Site Rent	\$ 18,500.00	\$ 18,000.00	\$ 18,000.00	\$ -
4032	Cemex Mining	\$ 56,000.00	\$ 25,000.00	\$ 48,000.00	\$ 23,000.00
4033	Cemex Minimum Rent	\$ 28,000.00	\$ 30,000.00	\$ -	\$ (30,000.00)
4034	Redlands Aggregate 5% Royalty	\$ 36,000.00	\$ 36,000.00	\$ 36,000.00	\$ -
	<b>Total Mining Income</b>	<b>\$ 138,500.00</b>	<b>\$ 109,000.00</b>	<b>\$ 102,000.00</b>	<b>\$ (7,000.00)</b>
4035	<b>Deferred Income</b>	<b>\$ 932,291.00</b>			
4040	<b>Miscellaneous Income</b>	<b>\$ 1,750.00</b>	<b>\$ 1,000.00</b>	<b>\$ 500.00</b>	<b>\$ (500.00)</b>
4050	<b>Property Tax Income</b>	<b>\$ 83,041.94</b>	<b>\$ 45,000.00</b>	<b>\$ 75,000.00</b>	<b>\$ 30,000.00</b>
4055	<b>SBVWMD Easement Agreement</b>	<b>\$ 12,791.00</b>	<b>\$ 13,000.00</b>	<b>\$ -</b>	<b>\$ (13,000.00)</b>
4060	<b>Property Income</b>				
	Mentone Property	\$ 6,000.00	\$ 2,100.00	\$ 2,100.00	\$ -
	Redlands Plaza	\$ 63,000.00	\$ 60,000.00	\$ -	\$ (60,000.00)
	<b>Total Property Income</b>	<b>\$ 69,000.00</b>	<b>\$ 62,100.00</b>	<b>\$ 2,100.00</b>	<b>\$ (60,000.00)</b>
4080	<b>Exchange Plan</b>	<b>\$ 24,500.00</b>	<b>\$ 25,000.00</b>	<b>\$ 40,000.00</b>	<b>\$ 15,000.00</b>
4085	<b>AB 303 Grant</b>		<b>\$ 100,000.00</b>	<b>\$ 100,000.00</b>	<b>\$ -</b>
	<b>Total Income</b>	<b><u>\$1,989,873.94</u></b>	<b><u>\$ 1,098,647.00</u></b>	<b><u>\$ 1,028,147.00</u></b>	<b><u>\$ (70,500.00)</u></b>

## General Fund 2009-2010 Proposed Budget Revision

Account	Description	Actual 08-'09	Approved 1st quarter 09-10 Revision	Admin Comm Proposed 09-10 Revision	Total Change
<b>Expenses</b>	<b><u>Operating Expenses</u></b>				
5000	<b>Regional Programs</b>				
5080	Lafco Contribution	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ -
5081	Wash Plan	\$ 151,500.00	\$ 50,000.00	\$ 100,000.00	\$ 50,000.00
	<b>Total Regional Programs</b>	<b>\$ 161,500.00</b>	<b>\$ 60,000.00</b>	<b>\$ 110,000.00</b>	<b>\$ 50,000.00</b>
5100	<b>Professional Services</b>				
5120	Misc. Professional Services	\$ 188,000.00	\$ 100,000.00	\$ 100,000.00	\$ -
5122	Wash Plan Professional Services	\$ 129,000.00	\$ 125,000.00	\$ 125,000.00	\$ -
5123	Wash Plan Legal Services		\$ 25,000.00	\$ 75,000.00	\$ 50,000.00
5125	Engineering Services	\$ 13,000.00	\$ 10,000.00	\$ 25,000.00	\$ 15,000.00
5130	Aerial Photography & Surveying	\$ 20,000.00	\$ 25,000.00	\$ 26,000.00	\$ 1,000.00
5140	Legislative Services	\$ 98,000.00	\$ 60,000.00	\$ 48,000.00	\$ (12,000.00)
5145	Environmental Services		\$ 6,500.00	\$ 6,500.00	\$ -
5160	Computer Services	\$ 25,500.00			\$ -
5170	Audit & Accounting Services	\$ 18,000.00	\$ 18,000.00	\$ 18,000.00	\$ -
5180	Legal	\$ 217,000.00	\$ 100,000.00	\$ 125,000.00	\$ 25,000.00
5185	Special Counsel	\$ 215,000.00	\$ 60,000.00	\$ 60,000.00	\$ -
5185	Financial Analyst-Consolidation	\$ 12,500.00			\$ -
	<b>Total Professional Expense</b>	<b>\$ 936,000.00</b>	<b>\$ 529,500.00</b>	<b>\$ 608,500.00</b>	<b>\$ 79,000.00</b>
5200	<b>Field Operations</b>				
5210	Equipment Maintenance	\$ 1,000.00	\$ 1,500.00	\$ 1,500.00	\$ -
5220	Maintenance Materials/Shop/Field	\$ 4,500.00	\$ 2,500.00	\$ 2,500.00	\$ -
5230	Field Tools	\$ 850.00	\$ 1,000.00	\$ 1,000.00	\$ -
5240	Facility Maintenance	\$ 3,500.00	\$ 5,000.00	\$ 1,500.00	\$ (3,500.00)
5250	Emergency Repairs	\$ -	\$ 5,000.00	\$ 3,000.00	\$ (2,000.00)
	<b>Total Field Operations</b>	<b>\$ 9,850.00</b>	<b>\$ 15,000.00</b>	<b>\$ 9,500.00</b>	<b>\$ (5,500.00)</b>

## General Fund 2009-2010 Proposed Budget Revision

Account	Description	Actual 08-'09	Approved 1st quarter 09-10 Revision	Admin Comm Proposed 09-10 Revision	Total Change
5300	<b>Vehicle Operations</b>				
5310	Vehicle Maintenance	\$ 6,000.00	\$ 7,500.00	\$ 5,000.00	\$ (2,500.00)
5320	Fuel	\$ 11,000.00	\$ 12,000.00	\$ 8,500.00	\$ (3,500.00)
	<b>Total Vehicle Operations</b>	<b>\$ 17,000.00</b>	<b>\$ 19,500.00</b>	<b>\$ 13,500.00</b>	<b>\$ (6,000.00)</b>
5400	<b>Utilities</b>				
5410	Alarm Service	\$ -	\$ 2,500.00	\$ 1,500.00	\$ (1,000.00)
5420	Electricity	\$ 12,000.00	\$ 15,000.00	\$ 1,000.00	\$ (14,000.00)
5430	Mobile Phones	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ -
5440	Telephone	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ -
5450	Natural Gas	\$ 1,000.00	\$ 1,200.00	\$ 150.00	\$ (1,050.00)
5460	Water	\$ 1,800.00	\$ 2,000.00	\$ 2,000.00	\$ -
5470	Internet Services	\$ 6,000.00	\$ 6,000.00	\$ 5,000.00	\$ (1,000.00)
	<b>Total Utilities</b>	<b>\$ 34,800.00</b>	<b>\$ 40,700.00</b>	<b>\$ 23,650.00</b>	<b>\$ (17,050.00)</b>
6000	<b>General Administration</b>				
6001	Other	\$ 400.00	\$ 400.00	\$ 400.00	\$ -
6002	Web Site	\$ -	\$ 15,000.00	\$ 12,000.00	\$ (3,000.00)
6003	Property Tax	\$ 250.00	\$ 250.00	\$ 250.00	\$ -
6006	Permits	\$ 50.00	\$ 500.00	\$ 500.00	\$ -
6009	Licenses	\$ 500.00	\$ 500.00	\$ 500.00	\$ -
6010	Surety Bonds	\$ 5,500.00	\$ 1,800.00	\$ 1,800.00	\$ -
6012	Office Maintenance	\$ 2,000.00	\$ 500.00	\$ 500.00	\$ -
6015	Mentone House Maintenance	\$ 650.00	\$ 750.00	\$ 1,500.00	\$ 750.00
6018	Janitorial Service	\$ 9,000.00	\$ 8,000.00	\$ 8,000.00	\$ -
6019	Janitorial Supplies	\$ 800.00	\$ 500.00	\$ 500.00	\$ -
6021	Office Equipment Maintenance	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ -
6024	Computer Equipment Maintenance	\$ 2,500.00	\$ 5,000.00	\$ 7,500.00	\$ 2,500.00
6030	Office Supplies	\$ 6,600.00	\$ 7,500.00	\$ 6,500.00	\$ (1,000.00)
6033	Office Equipment Rental	\$ 8,700.00	\$ 9,000.00	\$ 10,500.00	\$ 1,500.00
6036	Printing	\$ 2,100.00	\$ 9,000.00	\$ 9,000.00	\$ -
6039	Postage & Overnight Delivery	\$ 2,400.00	\$ 1,500.00	\$ 1,500.00	\$ -



## General Fund 2009-2010 Proposed Budget Revision

Account	Description	Actual 08-'09	Approved 1st quarter 09-10 Revision	Admin Comm Proposed 09-10 Revision	Total Change
6042	Payroll Processing	\$ 2,500.00	\$ 3,000.00	\$ 3,000.00	\$ -
6045	Bank Service Charges	\$ 200.00	\$ 200.00	\$ 200.00	\$ -
6048	Furniture & Accessories	\$ -	\$ 1,500.00	\$ 500.00	\$ (1,000.00)
6051	Uniforms	\$ 2,000.00	\$ 1,000.00	\$ 2,000.00	\$ 1,000.00
6060	<b>Outreach</b>	\$ 34,000.00			\$ -
6061	Water Resources Institute		\$ 6,000.00	\$ 1,000.00	\$ (5,000.00)
6062	Water for distribution		\$ 1,500.00	\$ 700.00	\$ (800.00)
6064	Business Expo's		\$ 750.00	\$ 300.00	\$ (450.00)
6065	Water Conservation Gardens		\$ 1,750.00	\$ 1,750.00	\$ -
6084	Training	\$ 700.00	\$ -	\$ -	\$ -
6087	Educational Reimbursement	\$ -	\$ 500.00	\$ -	\$ (500.00)
6090	Subscriptions/Publications	\$ 4,100.00	\$ 4,000.00	\$ 3,000.00	\$ (1,000.00)
6091	Public Notices	\$ 1,000.00	\$ 1,200.00	\$ 1,200.00	\$ -
6093	Memberships	\$ 12,000.00	\$ 13,000.00	\$ 18,000.00	\$ 5,000.00
	<b>Total General Administration</b>	<b>\$ 99,450.00</b>	<b>\$ 96,100.00</b>	<b>\$ 94,100.00</b>	<b>\$ (2,000.00)</b>
6100	<b>Benefits</b>				
6110	Vision Insurance	\$ 1,700.00	\$ 1,650.00	\$ 1,850.00	\$ 200.00
6120	Workers Comp. Insurance	\$ 6,500.00	\$ 9,000.00	\$ 14,000.00	\$ 5,000.00
6130	Dental Insurance	\$ 5,600.00	\$ 6,000.00	\$ 7,000.00	\$ 1,000.00
6140	State Unemployment Insurance	\$ 1,000.00	\$ 1,200.00	\$ 1,200.00	\$ -
6150	Medical Insurance	\$ 80,000.00	\$ 96,000.00	\$ 96,000.00	\$ -
6160	Social Security/Medicare Taxes	\$ 45,000.00	\$ 40,000.00	\$ 40,000.00	\$ -
6170	PERS Retirement	\$ 125,000.00	\$ 125,000.00	\$ 150,000.00	\$ 25,000.00
6180	Auto Allowance				\$ -
6190	Life Insurance	\$ 4,605.00	\$ 5,000.00	\$ 5,000.00	\$ -
	<b>Total Benefits</b>	<b>\$ 269,405.00</b>	<b>\$ 283,850.00</b>	<b>\$ 315,050.00</b>	<b>\$ 31,200.00</b>
6200	<b>Salaries</b>				
6210	Overtime	\$ 5,800.00	\$ 2,500.00	\$ 2,500.00	\$ -
6220	Temporary Assistance	\$ 10,500.00	\$ 12,000.00	\$ -	\$ (12,000.00)
6230	Regular Salaries	\$ 590,000.00	\$ 525,000.00	\$ 665,000.00	\$ 140,000.00
	<b>Total Salaries</b>	<b>\$ 606,300.00</b>	<b>\$ 539,500.00</b>	<b>\$ 667,500.00</b>	<b>\$ 128,000.00</b>

## General Fund 2009-2010 Proposed Budget Revision

Account	Description	Actual 08-'09	Approved 1st quarter 09-10 Revision	Admin Comm Proposed 09-10 Revision	Total Change
6300	<b>Insurance</b>				
6310	Property Insurance	\$ 2,300.00	\$ 2,500.00	\$ 2,500.00	\$ -
6320	General Liability Insurance	\$ 22,000.00	\$ 26,500.00	\$ 26,500.00	\$ -
	<b>Total Insurance</b>	<b>\$ 24,300.00</b>	<b>\$ 29,000.00</b>	<b>\$ 29,000.00</b>	<b>\$ -</b>
6400	<b>Directors Fees</b>				
6401	Directors Fees \$197/Day of Service	\$ 105,000.00	\$ 54,200.00	\$ 87,000.00	\$ 32,800.00
6405	Meeting Support Expense	\$ 1,500.00	\$ 800.00	\$ 3,500.00	\$ 2,700.00
6410	Mileage	\$ 3,000.00	\$ 2,000.00	\$ 2,000.00	\$ -
6415	Air Fare	\$ 7,000.00	\$ 2,000.00	\$ 3,000.00	\$ 1,000.00
6420	Other Travel	\$ 1,200.00	\$ 500.00	\$ 500.00	\$ -
6425	Meals	\$ 5,000.00	\$ 2,000.00	\$ 2,000.00	\$ -
6430	Lodging	\$ 16,000.00	\$ 4,800.00	\$ 6,000.00	\$ 1,200.00
	Election Expense			\$ 73,500.00	\$ 73,500.00
6435	Conferences/Seminars Registration	\$ 14,000.00	\$ 6,000.00	\$ 4,000.00	\$ (2,000.00)
	<b>Total Directors Expenses</b>	<b>\$ 152,700.00</b>	<b>\$ 72,300.00</b>	<b>\$ 181,500.00</b>	<b>\$ 109,200.00</b>
					\$ -
6500	<b>Administrative Staff Expenses</b>				\$ -
6505	Meeting Support Expense	\$ 2,000.00	\$ 1,000.00	\$ 2,000.00	\$ 1,000.00
6510	Mileage	\$ 450.00	\$ 500.00	\$ 1,500.00	\$ 1,000.00
6515	Air Fare	\$ 3,200.00	\$ 2,100.00	\$ 2,500.00	\$ 400.00
6520	Travel, Other (Rental Car, Taxi, Bus)	\$ 1,500.00	\$ 500.00	\$ 500.00	\$ -
6525	Meals	\$ 4,000.00	\$ 2,000.00	\$ 2,500.00	\$ 500.00
6530	Lodging	\$ 9,000.00	\$ 5,000.00	\$ 4,000.00	\$ (1,000.00)
6535	Conference/Seminar Registration	\$ 5,500.00	\$ 4,000.00	\$ 2,000.00	\$ (2,000.00)
6540	Training Registration	\$ 2,000.00	\$ 2,000.00	\$ 1,000.00	\$ (1,000.00)
	<b>Total Administrative Staff Expense</b>	<b>\$ 27,650.00</b>	<b>\$ 17,100.00</b>	<b>\$ 16,000.00</b>	<b>\$ (1,100.00)</b>
<b>Account</b>	<b>Total Operating Expenses</b>	<b>\$2,338,955.00</b>	<b>\$ 1,702,550.00</b>	<b>\$ 2,068,300.00</b>	<b>\$ 365,750.00</b>

## General Fund 2009-2010 Proposed Budget Revision

Account	Description	Actual 08-'09	Approved 1st quarter 09-10 Revision	Admin Comm Proposed 09-10 Revision	Total Change
<b>Expense</b>	<b><u>Capital Expenses</u></b>				
7000	<b>Construction</b>				
7010	Materials	\$ -	\$ 3,000.00	\$ 3,000.00	\$ -
7020	Protective Fencing	\$ -	\$ 50,000.00	\$ 50,000.00	\$ -
7030	Concrete Structures	\$ 12,500.00	\$ 100,000.00	\$ 100,000.00	\$ -
7040	Canals & Pipelines		\$ 500,000.00	\$ 200,000.00	\$ (300,000.00)
7050	Basins	\$ 31,000.00	\$ 50,000.00	\$ 30,000.00	\$ (20,000.00)
	<b>Total Construction</b>	<b>\$ 43,500.00</b>	<b>\$ 703,000.00</b>	<b>\$ 383,000.00</b>	<b>\$ (320,000.00)</b>
7100	<b>Land &amp; Buildings</b>				
7110	Buildings	\$ -	\$ 25,000.00	\$ 10,000.00	\$ (15,000.00)
7120	Land	\$ 11,846.00	\$ -	\$ -	\$ -
7130	Mentone Property (House)		\$ 2,000.00		\$ (2,000.00)
7140	Mentone Property (Shop)	\$ -	\$ 2,000.00		\$ (2,000.00)
	<b>Total Land &amp; Buildings</b>	<b>\$ 11,846.00</b>	<b>\$ 29,000.00</b>	<b>\$ 10,000.00</b>	<b>\$ (19,000.00)</b>
7200	<b>Equipment &amp; Vehicles</b>				
7210	Computer Hardware	\$ 12,000.00	\$ 3,000.00	\$ 3,000.00	\$ -
7220	Computer Software	\$ 13,000.00	\$ 6,500.00	\$ 6,500.00	\$ -
7230	Field Equipment	\$ 13,000.00	\$ 12,500.00	\$ -	\$ (12,500.00)
7240	Office Equipment	\$ 12,000.00	\$ 2,000.00	\$ 2,000.00	\$ -
7250	New Vehicles	\$ 40,000.00	\$ 70,000.00	\$ 70,000.00	\$ -
	<b>Total Equipment &amp; Vehicles</b>	<b>\$ 90,000.00</b>	<b>\$ 94,000.00</b>	<b>\$ 81,500.00</b>	<b>\$ (12,500.00)</b>
7300	<b>Professional Services</b>				
7314	Legal - Water Rights	\$ 250.00	\$ 25,000.00	\$ 25,000.00	\$ -
7336	Engineering Services - AB 303		\$ -	\$ -	\$ -
7338	Engineering Services - Other	\$ 322,000.00	\$ 100,000.00	\$ 25,000.00	\$ (75,000.00)
	<b>Total Professional Services</b>	<b>\$ 322,250.00</b>	<b>\$ 125,000.00</b>	<b>\$ 50,000.00</b>	<b>\$ (75,000.00)</b>
	<b>Total Capital Expenses</b>	<b>\$ 467,596.00</b>	<b>\$ 951,000.00</b>	<b>\$ 524,500.00</b>	<b>\$ (426,500.00)</b>

## General Fund 2009-2010 Proposed Budget Revision

Account	Description	Actual 08-'09	Approved 1st quarter 09-10 Revision	Admin Comm Proposed 09-10 Revision	Total Change
	Total Capital Expenses	\$ 467,596.00	\$ 951,000.00	\$ 524,500.00	\$ (426,500.00)
	Total Operating Expenses	<u>\$2,338,955.00</u>	<u>\$ 1,702,550.00</u>	<u>\$ 2,068,300.00</u>	<u>\$ 365,750.00</u>
	TOTAL BUDGET EXPENSES	<u>\$2,806,551.00</u>	<u>\$ 2,653,550.00</u>	<u>\$ 2,592,800.00</u>	<u>\$ (60,750.00)</u>
					\$ -
					\$ -
	TOTAL INCOME	\$1,989,873.94	\$ 1,098,647.00	\$ 1,028,147.00	\$ (70,500.00)
	TOTAL BUDGET EXPENSES	<u>\$2,806,551.00</u>	<u>\$ 2,653,550.00</u>	<u>\$ 2,592,800.00</u>	<u>\$ (60,750.00)</u>
	Difference	<u>\$ (816,677.06)</u>	<u>\$ (1,554,903.00)</u>	<u>\$(1,564,653.00)</u>	<u>\$ 9,750.00</u>
	LAIF Transfer to Balance Budget	\$ 816,677.06	\$ 1,554,903.00	\$ 1,564,653.00	

## Redlands Plaza Proposed 2009-2010 Budget

Description	Actual Jul-09-Dec 09	Proposed Jan 10-June 10	Total Proposed 09-'10
<b><u>Income</u></b>			
<b>Property Income</b>			
Redlands Plaza	\$ 70,988.70	\$ 49,551.96	\$ 120,541
<b>Total Property Income</b>	<u>\$ 70,988.70</u>	<u>\$ 49,551.96</u>	<u>\$ 120,541</u>
<b>Total Income</b>	<u><u>\$ 70,988.70</u></u>	<u><u>\$ 49,551.96</u></u>	<u><u>\$ 120,541</u></u>
<b><u>Operating Expenses</u></b>			
<b>Professional Services</b>			
Misc. Professional Services	\$ 4,189.76	\$ 3,900.00	\$ 8,090
Computer Services	\$ -	\$ -	\$ -
Audit & Accounting Services	\$ -	\$ -	\$ -
Legal	\$ -	\$ -	\$ -
<b>Total Professional Expense</b>	<u>\$ 4,189.76</u>	<u>\$ 3,900.00</u>	<u>\$ 8,090</u>
<b>Utilities</b>			
Alarm Service	\$ 779.52	\$ 479.52	\$ 1,259
Electricity	\$ 7,086.06	\$ 7,086.06	\$ 14,172
Natural Gas	\$ 393.00	\$ 393.00	\$ 786
Water	\$ 5,112.09	\$ 5,000.00	\$ 10,112
<b>Total Utilities</b>	<u>\$ 13,370.67</u>	<u>\$ 12,958.58</u>	<u>\$ 26,329</u>
<b>General Administration</b>			
Property Tax	\$ 713.12	\$ 715.00	\$ 1,428
Permits	\$ -	\$ -	\$ -
Redlands Plaza Maintenance			
Landscaping	\$ 1,500.00	\$ 1,800.00	\$ 3,300
Roofing,Plumbing,Heating, Air	\$ 9,944.43	\$ 5,000.00	\$ 14,944
Light Maintenance	\$ 747.44	\$ 1,000.00	\$ 1,747
Misc	\$ 2,316.69	\$ 1,000.00	\$ 3,317
Office Equipment Maintenance	\$ -	\$ -	\$ -
Computer Equipment Maintenance	\$ -	\$ -	\$ -
Printing	\$ -	\$ -	\$ -
Postage & Overnight Delivery	\$ -	\$ -	\$ -
<b>Total General Administration</b>	<u>\$ 15,221.68</u>	<u>\$ 9,515.00</u>	<u>\$ 24,737</u>
<b>Salaries</b>			
Regular Salaries		\$ 12,054.07	\$ 12,054
<b>Total Salaries</b>	<u>\$ -</u>	<u>\$ 12,054.07</u>	<u>\$ 12,054</u>
<b>Insurance</b>			
Property Insurance	\$ 2,300.00	\$ 700.00	\$ 3,000
General Liability Insurance			
<b>Total Insurance</b>	<u>\$ 2,300.00</u>	<u>\$ 700.00</u>	<u>\$ 3,000</u>
<b>Total Operating Expenses</b>	<u>\$ 35,082.11</u>	<u>\$ 39,127.65</u>	<u>\$ 74,210</u>
<b>TOTAL INCOME</b>	<u>\$ 70,988.70</u>	<u>\$ 49,551.96</u>	<u>\$ 120,541</u>
<b>TOTAL BUDGET EXPENSES</b>	<u>\$ 35,082.11</u>	<u>\$ 39,127.65</u>	<u>\$ 74,210</u>
<b>Net Income</b>	<u><u>\$ 35,906.59</u></u>	<u><u>\$ 10,424.31</u></u>	<u><u>\$ 46,331</u></u>



# SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT

Established 1932

1630 West Redlands Boulevard, Suite A  
Redlands, CA 92373-8032  
(909) 793-2503  
Fax: (909) 793-0188

P.O. Box 1839  
Redlands, CA 92373-0581  
Email: [info@sbvwcd.dst.ca.us](mailto:info@sbvwcd.dst.ca.us)  
[www.sbvwd.dst.ca.us](http://www.sbvwd.dst.ca.us)

To: Board of Directors

Prepared by: Samantha Brown, Finance Supervisor

Date: February 10<sup>th</sup>, 2010

Subject: Reduction of Board Meetings and Approved Meetings

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## **RECOMMENDATION**

The Administrative Committee recommends reducing the number of authorized meetings attended by the Directors from 10 to 9 per month, as well as reducing the Board of Directors Meetings from 2 to 1 per month.

## **BACKGROUND**

The Directors are currently authorized payment for 10 meetings per month. Currently, there are 2 monthly Board of Directors meetings, on the second and forth Wednesdays.

## **DISCUSSION**

The District is currently running the operating budget under a deficit. This is one of the recommendations to reduce the overall expenses to the District.



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[www.sbvwd.dst.ca.us](http://www.sbvwd.dst.ca.us)

To: Board of Directors

Prepared by: Samantha Brown, Finance Supervisor

Date: February 10<sup>th</sup>, 2010

Subject: Membership Renewal

---

## **RECOMMENDATION**

The Administrative Committee is recommending that the Board approve not renewing membership with WESTCAS and the Water Education Foundation at the end of the 2010 calendar year.

## **BACKGROUND**

WESTCAS and the Water Education Foundation cost \$750 and \$1035, respectively, currently per year. These memberships account for 13% of membership expenses per year.

## **DISCUSSION**

The District is currently running the operating budget under a deficit. This is one of the recommendations to reduce the overall expenses to the District.



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To: Board of Directors

Prepared by: Samantha Brown, Finance Supervisor

Date: February 10<sup>th</sup>, 2010

Subject: Reimbursement of Director McDonald's expenses

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## **RECOMMENDATION**

Director McDonald is requesting reimbursement for her expenses for attending the Memorial Service of Steve Hall. The expenses include airfare, car, mileage and meals which total \$424.16.

## **BACKGROUND**

Steve Hall was ACWA's Executive Director from 1993 to retirement in 2007. His Services were held in Folsom on January 29<sup>th</sup>.

## **DISCUSSION**

Director McDonald will provide details and copies.





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[www.sbywcd.dst.ca.us](http://www.sbywcd.dst.ca.us)

To: Board of Directors  
Prepared by: Samantha Brown, Finance Supervisor  
Date: February 10<sup>th</sup>, 2010  
Subject: LAFCO Payment

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## **RECOMMENDATION**

Staff recommends the Board vote to approve the new formula to apportion the costs of LAFCO. This would reduce our payment from \$9895.82 for 2009 to \$3525.70 for 2010.

## **BACKGROUND**

The District is required by Government Code Section 56381 to pay an apportioned cost to LAFCO.

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BOARD  
OF  
DIRECTORS

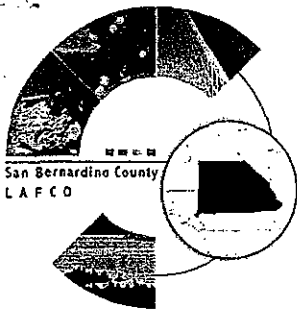
Richard W. Cornille  
Clare Henry Day

Arnold L. Wright  
John Longville

David E. Raley  
Melody McDonald  
Manuel Aranda, Jr.

GENERAL  
MANAGER

R. Robert Neufeld



# LOCAL AGENCY FORMATION COMMISSION

215 North "D" Street, Suite 204 • San Bernardino, CA 92415-0490  
(909) 383-9900 • Fax (909) 383-9901  
E-mail: [lafco@lafco.sbcounty.gov](mailto:lafco@lafco.sbcounty.gov) • [www.sbclafco.org](http://www.sbclafco.org)

*Established by the State of California to serve the Citizens, Cities, Special Districts and the County of San Bernardino*

## COMMISSIONERS

PAUL BIANE  
Board of Supervisors

KIMBERLY COX  
Special District

JAMES V. CURATALO  
Special District

LARRY McCALLON  
City Member

BRAD MITZELFELT, Vice Chair  
Board of Supervisors

MARK NUAIMI, Chair  
City Member

RICHARD P. PEARSON  
Public Member

## ALTERNATES

JIM BAGLEY  
Public Member

NEIL DERRY  
Board of Supervisors

ROBERT W. SMITH  
Special District

DIANE WILLIAMS  
City Member

## STAFF

KATHLEEN ROLLINGS-McDONALD  
Executive Officer

SAMUEL MARTINEZ  
Senior LAFCO Analyst

MICHAEL TUERPE  
LAFCO Analyst

*Vacant*  
Clerk to the Commission

ANGELA M. SCHELL  
Deputy Clerk to the Commission

REBECCA LOWERY  
Deputy Clerk to the Commission

## LEGAL COUNSEL

CLARK H. ALSOP

**DATE: JANUARY 26, 2010**

**FROM: LAFCO SPECIAL DISTRICT MEMBERS:**  
Kimberly Cox, Regular Member,  
James Curatalo, Regular Member; and  
Robert Smith, Alternate Member

**TO: ALL INDEPENDENT SPECIAL DISTRICTS IN SAN  
BERNARDINO COUNTY**

**SUBJECT: VOTE ON ALTERNATIVE APPORTIONMENT FORMULA  
FOR SPECIAL DISTRICTS FOR FISCAL YEAR 2010-11  
AND THEREAFTER**

Attached for your consideration is an alternative formula to apportion the costs of LAFCO as required by Government Code Section 56381. Over the past several years many of you have contacted us to discuss the mechanism for annually apportioning these costs and expressing your concern regarding the process.

Attached to this letter is a proposed modification to that formula, which we believe provides for a more equitable distribution of the cost. However, in order to change this apportionment process, State law requires that a quorum of districts which represents a majority of the population of the districts must cast their ballot in support for the change to take place.

By distribution of this letter we are requesting that your district review and vote on the proposed modified formula. Attached is the ballot for that purpose. In order to allow for the use of the modified formula in next year's appropriation process we will need to conduct the balloting expeditiously.

**THE DEADLINE FOR RECEIPT OF THE BALLOTS IN THE LAFCO OFFICE,  
BY FAX OR MAIL IS 5:00 P.M. MARCH 1, 2010.**

The voting instructions for this selection are as follows:

# BALLOT

## ALTERNATIVE FUNDING FORMULA FOR THE INDEPENDENT SPECIAL DISTRICTS' SHARE OF LAFCO COSTS FOR FISCAL YEAR 2010-11 AND THEREAFTER

The \_\_\_\_\_  
(Name of District)

has reviewed and considered the proposed modification in funding formula for the independent districts' share of the LAFCO cost for Fiscal Year 2010-11 and thereafter, and hereby casts its vote as indicated below.

In order for the proposed modification to be successful it must receive affirmative votes from 26 or more independent special districts, which represent a majority of the population within the County. If the change is successful it will remain in effect unless superseded by a different alternative selected by the districts at a future election. In the event there is no quorum reached or support from a majority of the districts representing a majority of the population is not reached, then no change shall be made for the apportionment formula.

### Approve the Proposed Modified Formula -- Four Tiers with Caps

YES \_\_\_\_\_

NO \_\_\_\_\_

I, \_\_\_\_\_, do hereby certify that at its regularly

(Name of President or Designee of District)

scheduled meeting of \_\_\_\_\_, the Board of Directors voted to select the alternative marked above by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
District President/Authorized Board Member

Dated: \_\_\_\_\_

Special Districts Allocation  
Plan Year 2009-10

District Name	Total Revenues FY 06-07	PROPOSED		CURRENT	
		Cost Allocation	Allocation Percentage	Cost Allocation	Allocation Percentage
Yucca Valley Airport	\$ 23,251.00	\$ 34.24	0.01%	\$ 96.10	0.03%
Yermo Community Services	\$ 52,891.00	\$ 77.89	0.02%	\$ 218.61	0.06%
Barstow Heights Community Services	\$ 62,773.00	\$ 92.44	0.03%	\$ 259.46	0.08%
Mojave Desert Resource Conservation	\$ 75,950.00	\$ 111.84	0.03%	\$ 313.92	0.09%
Apple Valley Foothill County Water	\$ 128,836.00	\$ 189.72	0.06%	\$ 532.51	0.15%
Twentynine Palms Cemetery	\$ 164,124.00	\$ 241.69	0.07%	\$ 678.36	0.20%
Thunderbird County Water	\$ 180,723.00	\$ 266.13	0.08%	\$ 746.97	0.22%
Big River Community Services	\$ 180,783.00	\$ 266.22	0.08%	\$ 747.22	0.22%
Daggett Community Services	\$ 203,591.00	\$ 299.81	0.09%	\$ 841.49	0.24%
Newberry Community Services	\$ 204,115.00	\$ 300.58	0.09%	\$ 843.65	0.24%
Apple Valley Heights County Water	\$ 253,726.00	\$ 373.64	0.11%	\$ 1,048.71	0.30%
Juniper-Rivera County Water	\$ 302,556.00	\$ 445.54	0.13%	\$ 1,250.53	0.36%
Mariana Ranchos County Water	\$ 429,749.00	\$ 632.85	0.18%	\$ 1,776.25	0.52%
Barstow Cemetery	\$ 435,663.00	\$ 641.55	0.19%	\$ 1,800.70	0.52%
Morongo Valley Community Services	\$ 444,235.00	\$ 654.18	0.19%	\$ 1,836.13	0.53%
Baker Community Services	\$ 586,739.00	\$ 864.03	0.25%	\$ 2,425.13	0.70%
Rim of the World Recreation and Park	\$ 889,032.00	\$ 1,309.18	0.38%	\$ 3,674.58	1.07%
Inland Empire Resource Conservation	\$ 1,262,026.00	\$ 1,858.45	0.54%	\$ 5,216.25	1.51%
Bighorn Desert View Water Agency	\$ 1,325,709.00	\$ 1,952.23	0.57%	\$ 5,479.46	1.59%
Arrowbear Park County Water	\$ 1,385,339.00	\$ 2,040.04	0.59%	\$ 5,725.93	1.66%
Chino Basin Water Conservation	\$ 1,993,775.00	\$ 2,936.02	0.85%	\$ 8,240.73	2.39%
West Valley Vector Control	\$ 2,295,663.00	\$ 3,380.58	0.98%	\$ 9,488.51	2.75%
San Bernardino Valley Water Conservation	\$ 2,394,208.00	\$ 3,525.70	1.02%	\$ 9,895.82	2.87%
Big Bear Airport	\$ 2,523,657.00	\$ 3,716.32	1.08%	\$ 10,000.00	2.90%
Helendale CSD	\$ 2,887,646.00	\$ 4,252.33	1.23%	\$ 10,000.00	2.90%
Barstow Fire Protection	\$ 3,173,852.00	\$ 4,673.80	1.36%	\$ 10,000.00	2.90%
Crestline Village Water	\$ 3,456,254.00	\$ 5,000.00	1.45%	\$ 10,000.00	2.90%
Big Bear Municipal Water	\$ 4,378,679.00	\$ 5,000.00	1.45%	\$ 10,000.00	2.90%
Crest Forest Fire Protection	\$ 4,410,374.00	\$ 5,000.00	1.45%	\$ 10,000.00	2.90%
Joshua Basin Water	\$ 5,065,192.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Running Springs Water	\$ 5,530,887.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Twentynine Palms County Water	\$ 5,741,856.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Crestline Lake Arrowhead Water Agency	\$ 6,593,616.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Apple Valley Fire Protection	\$ 7,147,097.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Hesperia Recreation and Park	\$ 7,645,051.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Phelan Piñon Hills Community Services District	\$ 7,681,841.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Hi-Desert County Water	\$ 10,902,639.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Big Bear City Community Services	\$ 13,176,338.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Monte Vista Water	\$ 14,810,050.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Lake Arrowhead Community Services	\$ 15,476,303.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Bear Valley Community Hospital	\$ 14,537,717.00	\$ 1,500.00	0.44%	\$ 500.00	0.15%
San Bernardino Mountains Community Hospital	\$ 14,735,151.00	\$ 1,500.00	0.44%	\$ 500.00	0.15%
West Valley Water District	\$ 18,429,109.00	\$ 10,000.00	2.90%	\$ 10,000.00	2.90%
Yucaipa Valley Water	\$ 20,615,294.00	\$ 20,000.00	5.80%	\$ 10,000.00	2.90%
East Valley Water	\$ 22,686,179.00	\$ 20,000.00	5.80%	\$ 10,000.00	2.90%
Chino Valley Independent Fire	\$ 25,644,883.00	\$ 20,000.00	5.80%	\$ 10,000.00	2.90%
Mojave Water Agency	\$ 44,808,923.00	\$ 20,000.00	5.80%	\$ 10,000.00	2.90%
Hi-Desert Memorial Hospital	\$ 50,187,212.00	\$ 1,500.00	0.44%	\$ 500.00	0.15%
Cucamonga County Water	\$ 62,861,847.00	\$ 30,000.00	8.70%	\$ 20,000.00	5.80%
San Bernardino Valley Municipal Water	\$ 65,583,666.00	\$ 30,000.00	8.70%	\$ 20,000.00	5.80%
Inland Empire Utilities Agency	\$ 78,050,812.00	\$ 30,000.00	8.70%	\$ 20,000.00	5.80%
<b>Grand Total</b>	<b>\$ 554,017,582.00</b>	<b>\$ 344,637.00</b>	<b>100.00%</b>	<b>\$ 344,637.00</b>	<b>100.00%</b>

**Methodology:**

Hospitals - \$1,500 applied

Revenues above \$50 million - \$30,000 applied and the reported revenues are deducted from the formula

\$20 million to \$50 million - \$20,000 applied and the reported revenues are deducted from the formula

\$5 million to \$20 million - \$10,000 applied and the reported revenues are deducted from the formula

\$2 million to \$5 million - \$5,000 cap and the reported revenues are deducted from the formula

Below \$2 million - proportional balance



# SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT

Established 1932

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Redlands, CA 92373-8032  
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To: Board of Directors

Prepared by: Samantha Brown, Finance Supervisor

Date: February 10<sup>th</sup>, 2010

Subject: 9<sup>th</sup> Amendment to Hicks Richardson Contract

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## **RECOMMENDATION**

Staff recommends the Board approve the 9<sup>th</sup> Amendment to the Hicks Richardson Contract, which would be retro-active to July 1<sup>st</sup>, 2009 and expire June 30<sup>th</sup>, 2010.

## **BACKGROUND**

Hicks Richardson is The District Lobbyist located in Washington DC and has been under contract with the District for 10 years.

## **DISCUSSION**

Hicks has performed work and been paid after through November 2009. We currently have 3 months of outstanding payments due to Hicks.

**NINTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
WITH HICK-RICHARDSON ASSOCIATES  
FOR LEGISLATIVE ADVOCACY SERVICES**

This NINTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR LEGISLATIVE ADVOCACY SERVICES ("Ninth Amendment") is entered into by and between the San Bernardino Valley Water Conservation District, a water conservation district duly formed under sections 74000, et seq., of the California Water Code ("District"), and Hicks-Richardson Associates ("Consultant").

**RECITALS**

1. On May 1, 2002, the District and Consultant entered into a "Professional Services Agreement for Legislative Advocacy Services" ("Agreement"), which memorialized the District's retention of Consultant and the scope of services to be provided.
2. On October 2, 2002 and July 2, 2003 the District's Board of Directors determined that the term of the Agreement should be extended through June 30, 2004.
3. On August 4, 2004, the District's Board of Directors determined that the term of this Agreement should be extended an additional six months, through December 31, 2004, and authorized compensation in the current amount of \$4,000 per month.
4. On February 2, 2005, the District's Board of Directors determined that the term of the Agreement should be extended an additional six months, through June 30, 2005, and authorized compensation in the current amount of \$4,000 per month.
5. On August 3, 2005, the District Board of Directors determined that the term of the Agreement should be extended an additional year, through June 30, 2006, and authorized compensation in the current amount of \$4,000 per month.
6. On July 5, 2006, the District Board of Directors determined that the term of the Agreement should be extended an additional year, through June 30, 2007, and authorized compensation in the current amount of \$4,000 per month.
7. On July 5, 2007, the District Board of Directors determined that the term of the Agreement should be extended an additional year, through June 30, 2008, and authorized compensation in the current amount of \$4,000 per month.
8. On June 4, 2008, the District Board of Directors determined that the term of the Agreement should be extended an additional year, through June 30, 2009, and authorized compensation in the current amount of \$4,000 per month.

9. On February 10, 2010, the District Board of Directors ratified the extension of the term of the Agreement from June 30, 2009, and determined the term of the Agreement should be extended until June 30, 2010, and authorized compensation in the current amount of \$4,000 per month.

10. This Ninth Amendment is now entered into between District and Consultant in order to effectuate the Board of Directors directions to staff.

NOW, THEREFORE, in consideration of the foregoing, the parties do hereby agree as follows:

1. Section 5.1 of the Agreement is amended to read as follows:

Section 5.1 Term. Unless earlier terminated in accordance with Section 5.2 of the original contract, this Agreement shall continue in full force and effect through June 30, 2010.

2. Except as otherwise amended herein, the Agreement remains in full force and effect as to all of its particulars.

SAN BERNARDINO VALLEY WATER  
CONSERVATION DISTRICT

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Clare Henry Day, Board President

HICKS-RICHARDSON ASSOCIATES

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Fred B. Hicks, PhD, Managing Partner

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT  
BOARD OF DIRECTORS

REVISED  
MINUTES OF THE BOARD MEETING OF  
December 11, 2009  
9:00 A.M.

President Melody McDonald called the Board Meeting of the Board of Directors to order at 9:00 a.m. All present stood for the pledge of allegiance, led by President McDonald.

ROLL CALL:

BOARD MEMBERS PRESENT:

Melody McDonald, President  
Manuel Aranda, Vice President  
Clare Henry Day, Director  
Arnold Wright, Director  
Richard Corneille, Director  
John Longville, Director (9:06 a.m.)  
David E. Raley, Director

BOARD MEMBERS ABSENT:

None

GENERAL COUNSEL PRESENT:

David Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

R. Robert Neufeld, General Manager  
Claud Seal, Assistant General Manager/District Engineer  
Samantha Brown, Finance Supervisor  
Randy Scott, Wash Plan Project Manager  
Lisa Pierce, GIS Coordinator  
Shanae Smith, Executive Assistant II

GUESTS PRESENT:

Randy Van Gelder, San Bernardino Valley Municipal Water District  
Doug Headrick, San Bernardino Valley Municipal Water District  
John Rossi, Western Municipal Water District  
Erin Gilhuly, CV Strategies  
Mark Shepherd, City of Redlands Resident  
Charles Roberts, Highland Community News



1. PUBLIC PARTICIPATION

President Melody McDonald announced this as the time for any persons present, who so desire, to make an oral presentation to the Board of Directors. Hearing none, the meeting proceeded with the published agenda items.

President McDonald requested self-introductions of all visitors attending the meeting.

2. ADDITIONS/DELETIONS TO AGENDA

There were no additions/deletions to the agenda.

3. BOARD DISCUSSION ITEMS

President McDonald welcomed Director David E. Raley to Division 5 to the District, and returning Directors Clare Henry Day and John Longville, for their appointment to Divisions 2, and 4, respectively.

Director Aranda deferred his report to Agenda Item 6D to be discussed later in the meeting.

President McDonald reported attending the Association of California Water Agencies Joint Powers' Authority (ACWA/JPIA) conference where she and Director Aranda attended the Executive Committee leadership workshop regarding management level training.

4. CONSENT CALENDAR

Minutes of the November 18, 2009, and the minutes of the November 23, 2009 Special Board meeting were reviewed.

**It was moved by Director Corneille and seconded by Director Day to approve the minutes from the Board meeting of November 18, 2009. The motion carried unanimously.**

**It was moved by Director Day and seconded by Director Longville to approve the minutes of the Special Board meeting of November 23, 2009. The motion carried 6-1-1, with Directors Corneille and Wright abstaining due to their absence at the meeting.**

5. SPECIAL PRESENTATION

Robert Neufeld reported that due to the Adoption of Resolution No. 3067 Denying LAFCO 3076 – Consolidation of San Bernardino Valley Water Conservation District and San Bernardino Valley Municipal Water (SBVMWD), the District had made a commitment to provide a level of service to its constituents that had not previously been provided. He noted he was instrumental in coordinating communications among the General Managers of the SBVMWD and Western Municipal Water District (WMWD) to

improve their working relationships with the District, and the benefits and services provided to the local communities. He introduced John Rossi of WMWD, and Randy Van Gelder and Doug Headrick of the SBVMWD. Mr. Neufeld also thanked Erin Gilhuly of CV Strategies, for her assistance with the presentation. Mr. Rossi said the purpose of the presentation was to inform the respective Boards of their General Managers' goals to implement a process for regional collaboration that would provide the citizens of the San Bernardino Basin Area (SBBA) with maximum water management planning, and maximum water resource flexibility. Questions from the Board were answered and discussed. Director Corneille commented that during the Integrated Regional Water Management (IRWMP) process, the Advisory Commission on Water Policy was a great forum for representation of elected officials from local water agencies, and that the program should be presented to the commission. A discussion ensued.

## 6. INFORMATION ITEMS

### A. Board Committee

There were no Board Committee Reports for this meeting.

### B. Wash Plan Update

Randy Scott summarized the Ad Hoc Committee meeting for the HCP on December 2, 2009, to review revisions to the HCP and proposed options for funding. He said the administrative document revisions were being reviewed and refined by the consultant and will be submitted to staff in the upcoming week for continued review. He suggested an additional meeting of the Ad Hoc Committee to review and discuss those changes to be submitted to the full Board for consideration, for subsequent authorization to submit to the US Fish and Wildlife Service as part of the District's 10A-Permit application scheduled for January 2010. The Ad Hoc committee also discussed potential funding alternative strategies for the Wash Plan implementation costs. Mr. Scott answered questions from the Board. A discussion ensued.

### C. Finance Supervisor's Report

Samantha Brown announced Board meeting financials will be reported at the second Board meeting of the month to accurately depict expenses for the prior month. She reported that the accounting software was upgraded to the 2010 version to assist the District in obtaining more accurate and detailed financial reports. She also noted that on January 1, 2010, the District will have a new payroll provider that will help increase efficiency and decrease monthly payroll costs.

### D. Assistant General Manager's Report

Claud Seal distributed copies of the Santa Ana River Basin State water spreading activities assembled by Sam Fuller of SBVMWD, that have been included in District spreading activities reported at the Upper Santa Ana Water Resources (USAWRA) meeting.

Mr. Seal made the following announcements:

1. Field personnel are no longer spreading State Water Project (SWP) water in the District's Santa Ana River spreading basins. Over 1,115 AF of SWP water purchased from SBVMWD has been spread. Current spreading rate for additional water for SBVMWD is about 52 cfs per day. SWP water spreading began in Mill Creek last week; 328 AF spread to date. In addition, storm water run-off in the Mill Creek Spreading Grounds is being spread. Total water spread through December 9th was over 16,848 AF in all area spreading basins with a total spreading amount of 4,600 AF. The last of the water should be spread by the end of January, 2010.
2. The new John Deere JD-60D was delivered last Monday, November 30, 2009. The field crew has been using the opportunity to become more familiar with the excavator while cleaning out the channel upstream of the Cuttle Weir and the Inlet Structure.
3. The Cuttle Weir modifications and upgrades have been completed except for the placement of the log boom "skimmer."
4. The Mill Creek Spreading Grounds Aerial Survey has been flown and is being converted to digital print.
5. SBVMWD has issued an RFP for Environmental Documentation and Construction Documents for the "Enhanced Recharge in the Santa Ana River Spreading Basins." Three engineering firms have submitted proposals on the project. The District participated in the review.

Mr. Seal presented a slide show presentation of the improved Cuttle Weir structure and answered questions from the Board.

#### E. General Manager's Report

Mr. Neufeld expanded on Mr. Seal's report regarding the preparation of the Engineering Investigation Report mandated for the District's groundwater charge. He said in the past, engineering services were retained by Todd Engineers. He introduced Lisa Pierce, the new GIS Coordinator as a valued addition to the District's Engineering Department, with not only GIS experience, but she is also a well respected leader in the water and environmental community. Ms. Pierce had both EIS and EIR writing experience in her past employment history, and offers additional skills in marketing and community outreach capacity building for the District. Mr. Neufeld noted that hiring Ms. Pierce part-time will save considerable costs for the District, as the process will be completed internally with her assistance.

Mr. Neufeld reported attending the ACWA Fall Conference where the water leaders of the state of California were in attendance. On December 4, 2009, Governor Schwarzenegger called on local water leaders to vote for the water bond on the November 2010 ballot. Mr. Neufeld clarified that the water bond has not yet passed, but has been approved by the legislature to be placed on the 2010 ballot. He said if the

bond is not approved, the state of the economy will suffer significantly. He noted the District's role will be to educate its constituents regarding the importance of the approval of the bond. A discussion ensued regarding ACWA's public education campaign, and materials that will be available to local water agencies for distribution.

General Manager Neufeld reported that Mark Nuaimi was no longer the Assistant City Manager at the City of Rialto. His position as Chairman of LAFCO would not be affected by this change as he is one of two City representatives to LAFCO and that has not changed.

Mr. Neufeld reported that dialogue has begun with the Director of the Orange County Flood Control District (OCFCD) regarding the possibility of obtaining the U.S. Army Corp of Engineers (USACE) facilities at the Seven Oaks Dam (SOD).

## **7. ACTION ITEMS, NEW BUSINESS, FYI**

### **A. ELECTION OF OFFICERS**

**It was moved by Director McDonald and seconded by Director Aranda to nominate Clare Henry Day to the office of President. The motion carried unanimously.**

**It was moved by Director Corneille and seconded by Director Aranda to nominate Director McDonald as Vice President elect. The motion carried unanimously.**

After discussion, the following motions took place:

**It was moved by Director Corneille and seconded by Director Aranda to close the nominations for the office of President. The motion carried unanimously. As there were no further nominations, Clare Henry Day was declared President.**

**It was moved by President Day and seconded by Director Aranda to close the nominations for the office of Vice President. The motion carried unanimously. As there were no further nominations, Melody McDonald was declared Vice President.**

### **B. APPOINTMENT OF COMMITTEES**

President Day made the following announcements:

- 1) Vice President McDonald will replace Cheryl Tubbs as Chair of the Administrative Committee; President Day and Director Wright will continue as members, with Director Raley as the alternate.

- 2) Director Corneille will Chair the Resources Committee; President Day and Director Wright will continue as members, with Director Aranda as the alternate.
- 3) Director Aranda will Chair the Outreach Committee; Directors Longville and Raley will be members of the committee, with Vice President McDonald as the alternate.

A discussion ensued regarding Section 4060.4 of the Policy Handbook for the Conduct of Business of the Board that authorizes the Board President to modify standing committee appointments, or by vote of the full Board. A discussion ensued regarding Director Raley's interests and his background in finance as it relates to existing standing committees and his potential future appointments to said committees.

C. APPROVE AMENDMENT TO GENERAL COUNSEL CONTRACT

**It was moved by Director Corneille and seconded by Director Day to Authorize the General Manager to Execute an Amendment to the General Counsel Contract. The motion carried unanimously.**

D. APPROVE SCHEDULE OF 2010 BOARD MEETING CALENDAR

**It was moved by Director McDonald and seconded by Director Longville to Approve the Schedule of 2010 Board Meeting Calendar. The motion carried unanimously.**

Discussion ensued. Director Longville suggested that Board members be notified electronically of all modifications to the schedule of Board meetings to avoid conflicts in personal schedules. Director Corneille inquired about the need for two monthly meetings. He suggested that the Board use the time externally as opposed to the Board room. Mr. Neufeld said during the strategic planning process and subsequent implementation of the plan, the District will continue with the existing schedule to facilitate the meetings. President Day suggested that revisions to the schedule of Board meetings be made as the Board deemed necessary.

E. CONSIDER APPROVAL OF THIRD AMENDMENT TO W. MCMULLAN & ASSOCIATES CONTRACT FOR STRATEGIC PLANNING FACILITATOR AT THE REQUEST OF THE BOARD

Mr. Neufeld said this item was brought forward by the Board of Directors due to the depth of the strategic planning workshop.

**It was moved by Director McDonald and seconded by Director Longville to discuss staff's recommendation to amend the W. McMullan Associates Contract. The motion carried 5-1-1, with Director Raley opposed, and Director Wright abstained due to his absence at the meeting.**

President Day briefly summarized the elements outlined in the vision plan that needed to be accomplished, and the Board decided to continue the workshop at a later date. Director Raley said he was not present at the workshop. He reported that Mr. Mullen has forwarded the meeting materials for his review. He said that upon review of the materials, he deemed it unnecessary to schedule an additional meeting with the facilitator, and felt that as an alternative, the facilitator should submit a report; a subsequent meeting of the Board should be scheduled to review and refine the details of the report. Director Raley said that he would not support an additional \$8,000 to have the facilitator present. A discussion ensued regarding clarification of the contract amendment costs and support of the Board to complete the plan process.

**It was moved by Director McDonald and seconded by Director Longville to Approve the Third Amendment to W. McMullan Associates Contract. The motion carried 5-1-1, with Director Raley opposed, and Director Wright abstaining due to his absence at the November 23, 2009 meeting.**

#### 8. UPCOMING EVENTS

Mr. Neufeld announced the Department of Water Resources Grant Funding workshops to solicit comments on the draft guidelines and Proposal Solicit Packages (PSP) prepared for the Local Groundwater Assistance (LGA) and Proposition 50 Supplemental Integrated Regional Water Management (IRWM) funding. He said the workshop was free, but required Board approval for Board of Director attendance. Discussion ensued.

**It was moved by Vice President McDonald and seconded by Director Aranda to authorize one member of staff to attend the Department of Water Resources (DWR) Grant Funding workshop scheduled, January 7, 2010. The motion carried unanimously.**

#### 9. CLOSED SESSION

**At 10:55 a.m., it was moved by Director Corneille and seconded by Director McDonald to adjourn to Closed Session, Government Code Section 54956.9(b)(3)(a), and Section 54956.0(c), and Section 54956.0(b)(1), confer with legal counsel regarding significant exposure to litigation in one case. The motion carried unanimously.**

The Closed Session adjourned at 11:32 a.m. and the regular meeting reconvened.

#### 10. ADJOURN MEETING

At 11:32 a.m., the meeting adjourned to the Regular Board meeting scheduled for January 13, 2009, at 1:30 p.m., at 1630 W. Redlands Blvd., Redlands, CA.

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R. Robert Neufeld  
Secretary of the Board