

**SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS**

**REGULAR BOARD MEETING
AGENDA**

October 31, 2012 – 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 office 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 office and in the Agenda Package on the Districts website.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

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. PUBLIC HEARING RELATED TO REDISTRICTING

- **Brief Staff Presentation (Page 4)**
- **Open Public Hearing**
- **Receive Public Comments or Testimony**
- **Close Public Hearing**
- **Consider Adoption Resolution No. 484**

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 Athena Medina at (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.

Elections Code section 22000 a) Each district required by its authorizing act to adjust division boundaries pursuant to this section shall, by resolution, after each federal decennial census, and using that census as a basis, adjust the boundaries of any divisions so that the divisions are, as far as practicable, equal in population and in compliance with Section 1973 of Title 42 of the United States Code (VOTING RIGHTS ACT), as amended, to the extent those provisions are applicable. In adjusting the boundaries of the district, the board may give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity, and compactness of territory, and (4) community of interests of the district. This section does not apply to districts in which only landowners vote for directors or whose directors are all elected at large or appointed. (b) The resolution specified in subdivision (a) shall be adopted by a vote of not less than a majority of the directors.

4. CONSENT CALENDAR

1. Approval of Board Minutes, October 10, 2012 (Page 9)
2. Ratify Commendatory Resolution No. 483, Honoring Bob Martin (Page 17)

5. ACTION ITEMS, NEW BUSINESS

A. 2012 AUDIT PRESENTATION (Page 18)

Recommendation: The Ad Hoc Audit Committee recommends the Board review and accept the 2012 Audit Report presented by Charles Fedak & Company.

B. APPROVAL OF FINAL COLLABORATIVE AGREEMENT WITH SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (SBVMWD) AND WESTERN MUNICIPAL WATER DISTRICT (WMWD) (Page 71)

Recommendation: Staff recommends the Board approve the final agreement with SBVMWD and WMWD and authorize Board President to execute the agreement.

6. INFORMATION ITEMS:

- A. Rules of Order (Page 93)
- B. DFR Application Presentation
- C. Santa Ana Sucker Final Decision Review (Page 94)
- D. Future Agenda Items & Staff Task requests from Directors
- E. Identify dates for Resources Committee Meeting and Ad Hoc Sphere of Influence Committee Meeting

7. MONTHLY BOARD MEMBER COMMITTEE ACTIVITY REPORTS, AND/OR COMMENTS BY BOARD MEMBERS

8. UPCOMING MEETINGS:

- | | |
|-------------------------|--|
| 1. November 1, 2012 | ACWA\JPIA Sexual Harassment Training, 9:00 a.m. - 11 a.m. |
| 2. November 5, 2012 | Basin Technical Advisory Committee, 1:30 p.m. |
| 3. November 6, 2012 | San Bernardino Valley Municipal Water District Board of Directors Meeting, 2:30 p.m. |
| 4. November 8, 2012 | Upper Santa Ana Water Resources Association, 9:30 a.m. |
| 5. November 12, 2012 | Office Closed in Observance of Veterans Day |
| 6. November 19, 2012 | Association of San Bernardino County Special Districts Dinner, 6:00 p.m. (Victorville) |
| 7. November 20, 2012 | San Bernardino Valley Municipal Water District Board of Directors Meeting, 2:30 p.m. |
| 8. November 22-23, 2012 | Office Closed in Observance of Thanksgiving Day |
| 9. December 4-7, 2012 | ACWA Fall Conference, San Diego |
| 10. December 12, 2012 | Holiday Luncheon and Board Meeting, 10:00 a.m. |

9. CLOSED SESSION

1. The Board may convene in Closed Session to discuss pending litigation, under Government Code section 54956.9(a), *Alechman v. City of Redlands, et al.*, San Bernardino County Superior Court Case No. CIVDS1210203.
2. Under authority of Government Code section 54956.9 (c), the Board may meet in Closed Session to decide whether to initiate litigation.

- 10. ADJOURN MEETING.** The next regular Board meeting will be on November 14, 2012 at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA.



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
www.sbvwd.dst.ca.us

Memorandum No. 1133

To: Board of Directors

From: General Manager, Daniel B. Cozad

Date: October 31, 2012

Subject: Redistricting Into Five New Divisions

RECOMMENDATION

Staff recommends the Board convene the public hearing and consider any written or oral comments and adopt Resolution No. 484 ordering the reduction in the number of member from seven to five and setting the boundaries of the new divisions.

BACKGROUND

The District is required to review Division Boundaries after the decennial US Census. All political bodies use the same information from the US Census Bureau. The purpose of the redistricting is to insure each Division of District is as nearly equal in population as may be.

Elections Code section 22000

a) Each district required by its authorizing act to adjust division boundaries pursuant to this section shall, by resolution, after each federal decennial census, and using that census as a basis, adjust the boundaries of any divisions so that the divisions are, as far as practicable, equal in population and in compliance with Section 1973 of Title 42 of the United States Code (VOTING RIGHTS ACT), as amended, to the extent those provisions are applicable. In adjusting the boundaries of the district, the board may give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity, and compactness of territory, and (4) community of interests of the district. This section does not apply to districts in which only landowners vote for directors or whose directors are all elected at large or appointed.

(b) The resolution specified in subdivision (a) shall be adopted by a vote of not less than a majority of the directors.

The District is currently comprised of seven divisions. The District's population in the 2010 census is estimated at 227,529 persons with seven divisions the ideal division would contain 32,504 persons. The current boundaries contain between 30,397 and 35,366 persons. Division 3 is the highest above the ideal and Division 1 is the lowest above the ideal. Based on this deviation the Board is required to redistrict to equalize the divisions.

BOARD
OF
DIRECTORS

Richard W. Corneille
Clare Henry Day

Bob Glaubig
John Longville

David E. Raley
Melody McDonald
Manuel Aranda, Jr.

GENERAL
MANAGER

Daniel B. Cozad

In October 2010 the Board passed Resolution No. 463 stating the Boards intent to move from seven divisions to five divisions. SB-235 authored by and supported by the District provides for this change of divisions without a vote of the entire District. This law went into effect on January 1, 2012. This law requires the District vote to make the change more than 180 days preceding the election of a director.

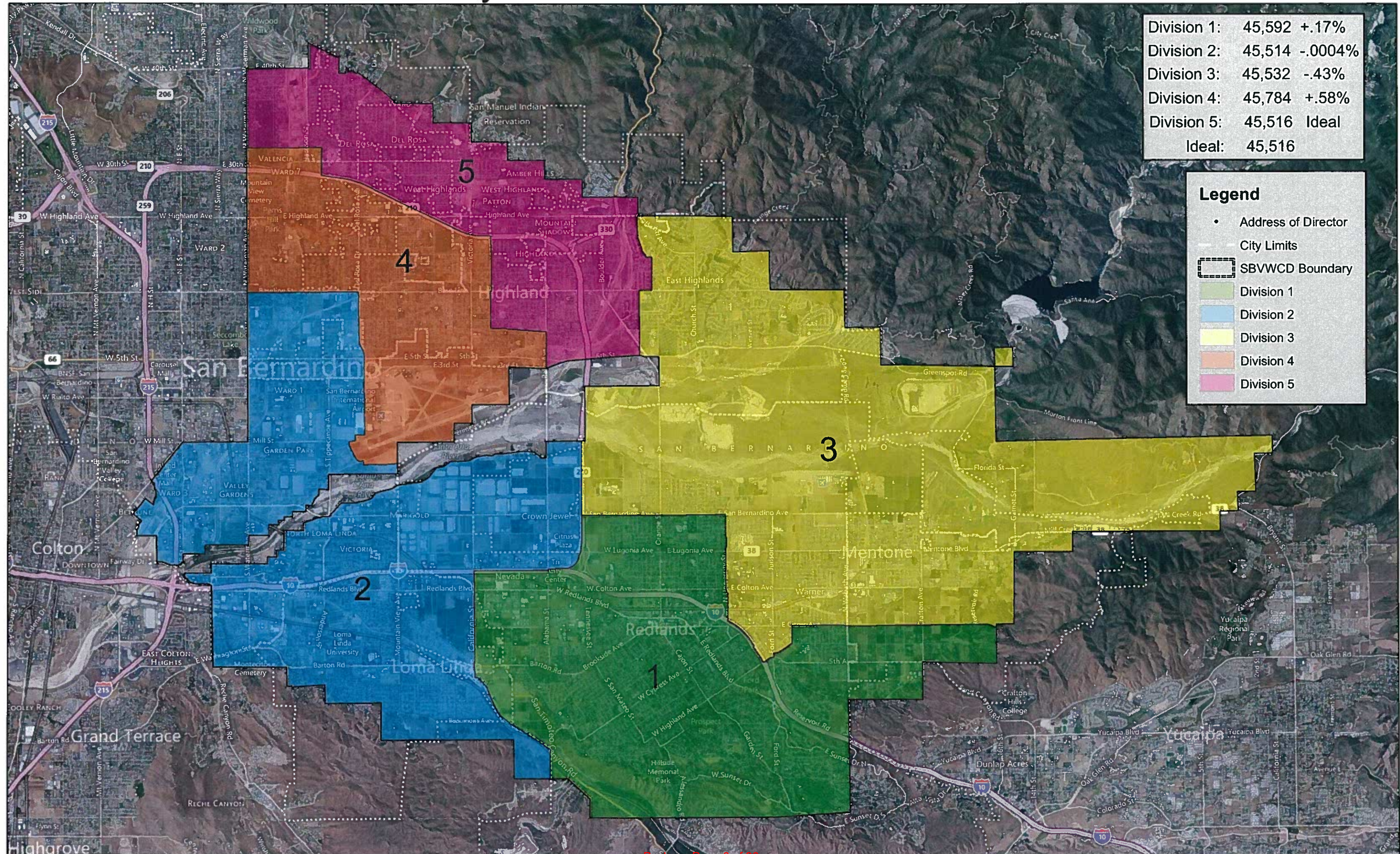
At the September 12th Board meeting the Board unanimously adopted Resolution No. 481 proposing to reduce the number of directors from seven to five. The resolution contained the map shown as Attachment 1 and description of the boundaries for the five divisions proposed to be established. The Board Secretary set a date for a public hearing on the proposal to reduce the number of directors, for October 31, 2012, which is not less than 30 days and not more than 60 days after the date of adoption of Resolution No. 481. The Board Secretary gave notice of the hearing including a description of the proposal and a map and general description of the proposed boundaries of the five divisions was published on the web and made available at District office. The District also published notice of the hearing according to Section 6063 of the Government Code in the San Bernardino Sun Newspaper on October 2nd, 9th, 16th and Highland Community News on October 5th, 12th, and 19th, both more than 10 days before the hearing.

Additionally to make this change the Board shall hold a hearing to receive and consider any written or oral comments regarding the proposed reduction in the number of directors. After receiving and considering those comments, the board, by a recorded vote of two-thirds of the total membership of the board, shall do either of the following:

- (1) Disapprove the proposal.
- (2) Adopt Resolution No. 484 that orders the reduction in the number of members of the board.

A reduction in the number of directors and a change in division boundaries pursuant to this section shall not affect the term of office of any director. A director of a division for which boundaries have been changed shall continue to be the director of the division bearing the number of his or her division until the office becomes vacant by means of term expiration or otherwise, whether or not the director is a resident within the boundaries of the division as changed. The successor to the office of a division for which boundaries have been changed shall be a resident and voter of that division.

San Bernardino Valley Water Conservation District Division Boundaries



RESOLUTION NO. 484

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT, IMPLEMENTING SENATE BILL 235 AND ORDERING THE REORGANIZATION OF THE DIVISIONS OF THE SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT, REDUCING THE NUMBER FROM SEVEN TO FIVE

WHEREAS, the San Bernardino Valley Water Conservation District (“District”) is duly formed and existing under the Water Conservation District Law, California Water Code Sections 74000 et seq; and

WHEREAS, California Water Code Section 74200 provides that a Board of Directors can consist of three, five, or seven members, depending on the number of divisions within a district; and

WHEREAS, historically, the District has been organized into seven divisions; and

WHEREAS, the District has been committed to providing responsive, representative government for all of its constituents, in the manner which is most cost effective; and

WHEREAS, the District’s Board of Directors concluded that cost efficiencies may be able to be achieved, both in terms of Board of Directors’ expenses and election expenses, from a reduction in the number of divisions of the District from seven to five; and

WHEREAS, the District proposed and lobbied for Senate Bill No. 235, an act to add Section 74209 to the Water Code, which has been chaptered as Chapter 122 and was approved by the Governor on July 25, 2011; and

WHEREAS, Senate Bill 235 added Water Code Section 74209, which provided authority for the District to reduce the number of divisions from seven to five, and provided procedures incident thereto; and

WHEREAS, the District’s Board of Directors has given thorough consideration to the question of whether a reduction to five divisions, from the existing seven divisions, was advisable, and if so, in what manner the divisions might best be reorganized consistent with the maintenance of logical boundaries, communities of interest, and applicable provisions of law; and

WHEREAS, the Board of Directors reviewed guidelines and conceptual iterations of potential redistricting of divisions at its meetings of September 14, 2011 and January 12, 2012; and

WHEREAS, on April 30, 2012, the Board took action to direct staff to prepare alternatives for a five division redistricting, and to prepare a resolution for implementation of such redistricting; and

WHEREAS, the Board reviewed additional potential redistricting scenarios at its meetings of July 25, 2012, and a special workshop devoted to redistricting issues held August 29, 2012; and

WHEREAS, as a result of these efforts, the Board has determined that it is in the best interests of the District and its constituents, to redraw the seven historical divisions of the District into five divisions, thereby resulting in cost efficiencies without any sacrifice of responsiveness in representation of its constituents, and

WHEREAS, the Board has reviewed the requirements of Elections Code Section 22000, and section 1973 of Title 42 of the United States Code, as amended, in connection with the drawing of the five new division boundaries, including reviewing factors of topography, geography, cohesiveness, contiguity, integrity and compactness of territory, and communities of interests of the District, and determined that the division boundaries as proposed to be reorganized and established hereto will promote the efficient provision of the District’s services, include a proportionate balance of population and represented groups throughout the divisions, and will improve the efficiency of the District’s operations within its jurisdictional boundaries; and

WHEREAS, on September 12, 2012, the Board Approved Resolution No. 481 resolving to reduce the number of divisions within the District, and the resulting number of directors on the District’s Board of Directors, from seven (7) to five (5), and approving the map and description of the boundaries for the five divisions proposed to be established, which attached hereto as Exhibit “1.” Resolution No. 481 directed the District’s General Manager to set a public hearing on the proposal to reduce the number of divisions as set forth in Exhibit “1;” and .

WHEREAS, The District General Manager gave notice of the hearing, including a description of the proposal and a map and general description of the proposed boundaries, pursuant to Government Code Section 6063. The Board secretary set a date for a public hearing on the proposal to reduce the number of divisions, for October 31, 2012, which was not less than 30 days and not more than 60 days after the date of adoption of Resolution No. 481. The District also

published notice of the hearing according to Section 6063 of the Government Code in the San Bernardino Sun Newspaper on October 2nd, 9th, and 16th and Highland Community News on October 5th, 12th and 19th, both more than 10 days before the hearing; and

WHEREAS, that public hearing thus duly noticed, was held on October 31, 2012, and all comments were received and considered;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE San Bernardino VALLEY WATER CONSERVATION DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The District’s Board hereby confirms the reduction of the number of divisions, and the consequent reduction in the number of Directors, directors from seven (7) to five (5).

Section 2. The District’s Board hereby approves and confirms the map and description of the reconfigured boundaries for the five divisions established under this Resolution, which are attached hereto as Exhibit “1.”

Section 3. The District’s General Manager and General Counsel are hereby directed to take all further measures required to effectuate the implementation of the reduction of divisions from seven (7) to five (5), including coordinating with the Registrar of Voters on the new mapping of divisions, coordinating the alignment and remaining terms of Directors, and all other matters necessary or convenient to effectuating the reduction of divisions and Directors accomplished hereby.

PASSED, APPROVED, AND ADOPTED at the regular meeting of the Board of Directors this 31st day of October, 2012, by the following roll-call vote:

| | |
|----------|------------|
| YES: | DIRECTORS: |
| NO: | DIRECTORS: |
| ABSTAIN: | DIRECTORS: |
| ABSENT: | DIRECTORS: |

Richard Corneille, President

ATTEST:

Daniel Cozad, Secretary

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF October 10, 2012
12:30 P.M.

President Corneille called the Board Meeting of the Board of Directors to order at 12:30 p.m. All present stood for the pledge of allegiance, led by President Corneille.

ROLL CALL:

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

John Longville, Director

GENERAL COUNSEL PRESENT:

David Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

Daniel Cozad, General Manager
Athena Medina, Administrative Services Specialist

GUESTS PRESENT:

Charles Roberts, Highland Community News
Don Lee, Tetra Tech
Bob Tincher, San Bernardino Valley Municipal Water District

1. CLOSED SESSION

It was moved by Director McDonald and seconded by Director Aranda and at 12:35 p.m. the Board adjourned into Closed Session.

Legal counsel announced the Board would adjourn to closed session on all items listed on published agenda. Under the authority of Government Code section 54956.9 (b) (3) (e) the Board entered closed session to discuss exposure to litigation.

At 1:30 p.m. the Board reconvened into open session and General Counsel reported no reportable action was taken in closed session.

2. PUBLIC PARTICIPATION

President Corneille 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 continued with published agenda items.

3. ADDITIONS/DELETIONS TO AGENDA

There were no additions or deletions to the agenda.

4. CONSENT CALENDAR

Approval of the Board Minutes from September 12, 2012

It was moved by Director Aranda and seconded by Director Day to approve the minutes from September 12, 2012 with revisions suggested by President Corneille. The motion carried 6-0 with Director Longville noted absent.

Approval of Unaudited Financials and Check Register for, September 2012.

President Corneille requested the Board of Director's account 6410 for mileage be verified for actual expenses, since 71% of the budget has been reported spent in the first 3 months of the year.

It was moved by Director Day and seconded by Director Aranda to approve the Unaudited Financials and Check Register for September 2012. The motion carried 6-0 with Director Longville noted absent.

5. ACTION ITEMS, NEW BUSINESS

A. ENHANCED RECHARGE PROJECT PRESENTATION-SBVMWD

Bob Tincher with San Bernardino Valley Municipal Water District presented a PowerPoint presentation on the Enhanced Recharge Project. He announced the receipt of the 60% design drawings and specifications documents for this project. Prior to review of where the project is today he presented a brief history of the project and the tasks that led up to its implementation.

In June of 2010 SBVMWD and WMWD received a permit to divert Santa Ana River water from the State Water Resources Control Board and have been diverting water since. Mr. Tincher noted that this project has been in development since 1991 when SBVMWD originally filed to obtain their water rights. He stated that prior to the creation of Seven Oaks Dam (SOD) in 1998 there was no need to create these facilities; after the dam was installed it forever altered the stream flow that comes from the canyon. There is a controlled outlet below the dam which backs the water up behind the dam. The peak design inflow on the Santa Ana River is 82000 cfs which occurred historically within a span of four days. We would like to reduce and control the dam outflow to capture more water. Before the dam the watershed received peaks of 82,000 cfs with most of this amount lost to the ocean, and now that the dam is in place the maximum outflow is 7,000 cfs.

The design criteria for the Enhanced Recharge facilities is 500 cfs using both the District's existing facilities and constructing new facilities on District property. The groundwater models indicate that 80,000 acre feet per year could be put into the expanded Santa Ana River facilities and recharged into the basin at 500 cfs. In 2009, an Optimization Study was performed to verify how District facilities could be used. The current ponds can handle 195 cfs, therefore SBVMWD will need to add additional facilities divert up to 500 cfs. Mr. Tincher continued and reviewed studies that were performed during the development of the Enhanced Recharge Project. The new facilities may be able to capture up to 80% of the water, with the second phase of the Plunge Pool Pipeline it may be able to achieve 98% capture. Mr. Tincher reviewed the schematic in detail and potential schedule for construction. Present Corneille commented that the District is reviewing and commenting on the design of the facilities. He thanked Mr. Tincher for his comprehensive presentation on the project.

There was no action required.

B. COLLABORATIVE AGREEMENT WITH SAN BERNARDINO MUNICIPAL WATER DISTRICT (SBVMWD) AND WESTERN MUNICIPAL WATER DISTRICT (WMWD)

President Corneille introduced this item. He noted that Director McDonald, GM Cozad and he attended a meeting yesterday at SBVMWD to discuss several new concerns with the Agreement that SBVMWD Board members have raised after they approved the agreement. The issues included the yearly LACPI increase and the term of the agreement. The SBVMWD Board has requested that the Agreement term be revised for 25 years with five, five year extensions. It was suggested that the Agreement should be approved today by the District as is, but give Staff direction to participate in negotiations to reduce the term of the agreement from 50 years to a fixed 25 years with five, five year extensions and bring back the final agreement after SBVMWD and WMWD approve any amendments to the District Board for final review and approval.

It was moved by Director Day and seconded by Director McDonald to approve the Collaborative Agreement and to direct Staff to participate in negotiations with the other parties to the agreement changing the term to 25 years with five, five year extensions and bring back an amended agreement for review and approval by the Board. The motion carried 6-0 with Director Longville noted absent from the vote.

C. SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT EASEMENT AGREEMENT

Daniel Cozad, General Manager introduced this item for discussion. He noted that this agreement is to allow the SBCFCD an easement to use the property for cleanout of flood control facilities. The SBCFCD currently has an historic easement for flood control on the property, but not specifically for short term storage and sorting of material from flood control facilities. The City of Highland has asked the SBCFCD to move their operations from their current sites due to potential development of that land. CEMEX is the lessor of the land SBCFCD desires to use. SBCFCD will coordinate with CEMEX to ensure they work without causing undue harm to CEMEX's operations. President Corneille inquired as to if there was a term for which SBCFCD would be able to store materials. Mr. Cozad noted that there is no limit, but the District reserves the right to ask SBCFCD to move if necessary. The SBCFCD typically uses contracts with 18 month periods of performance. The materials stored on District property are excavated materials from nearby flood control basins. Mr. Cozad stated it's an encumbrance on future use of the land but he does not feel that there are any other negatives elements to this agreement.

It was moved by Director McDonald and seconded by Director Raley to approve the San Bernardino County Flood Control District Easement Agreement. The motion carried 6-0 with Director Longville noted absent from the vote.

D. ESTABLISHING BUSINESS CREDIT CARD ACCOUNTS WITH CITIZENS BUSINESS BANK

President Corneille introduced this item for discussion. He asked Mr. Cozad to identify what the current process is for purchasing, specifically for field operations. Mr. Cozad noted that Field Staff does have credit accounts at their disposal for materials at local merchants, but all major purchases are made through the General Manager and Administrative Staff. All purchases are verified by comparing receipts to credit card statements. Mr. Cozad noted that currently Daniel Cozad and Melody McDonald have credit cards. Under the new account only General Manager Cozad and Administrative Services Specialist, Athena Medina would have credit cards. Included in the resolution is that once we obtain a Citizen's Business Bank credit card account, the American Express and Bank of America card accounts will be terminated.

It was moved by Director McDonald and seconded by Director Aranda to approve Resolution No. 482 authorizing Staff to establish a new business credit card account with Citizen's Business Bank and close the existing bank credit card accounts. The motion carried 6-0 with Director Longville noted absent.

E. PLUNGE CREEK CONSERVATION PROJECT APPROVAL

Mr. Cozad reviewed this item with the Board. This project was discussed at the Board Meeting on September 12th. There was a letter submitted to County Flood Control regarding a potential project they may have on the edge of Plunge and Elder Creek and out of those discussions the Plunge Creek Conservation Project was developed. The District and Flood Control have interest in improving habitat for Woolly Star, Kangaroo Rat and other endangered species. Mr. Cozad noted that on package pages 88 & 89 there include maps of the potential project area. This joint project was submitted on October 1, 2012 to SAWPA for OWOW funding.

The Wash Plan has an implementation element to improve habitat in the EIR which includes elements of this project. He stated that this project was developed from the District's Priorities list to partner with other agencies. SBVMWD assisted in developing this project by allowing the District to use preliminary engineering data from their tributary study for additional recharge areas. Staff identified areas next to the active channel which contain nonnative grasses that are unsuitable for Kangaroo Rat habitat and reduce

percolation. Mr. Cozad suggested that removing the nonnative grass and creating water diversions points would create higher quality habitat for the Kangaroo Rats. There would be an improvement from low quality habitat to high quality habitat while creating water and species conservation. Mr. Cozad will meet with USFWS to discuss the project in detail. The District will have to commit local funding for the project to receive grant funding and is currently looking for partners to help support the project. President Corneille noted that this is a request and the success of the grant application is not guaranteed. Mr. Cozad noted that there is only a total of \$16 million dollars available of SAWPA OWOW grant funding in round 2. The funding commitment letter will come out next fiscal year if the project is selected for funding.

It was moved by Director Raley to approve the Plunge Creek Conservation Project and seconded by Director Aranda. The motion carried 6-0 with Director Longville noted absent.

F. DISTRICT PRIORITIES UPDATE

Mr. Cozad reviewed the updated District Priorities table. President Corneille said that he thinks December is optimistic in regards to the Strategic Plan review and revisions. He would prefer to defer to early next year to allow for partner agencies to review as well. There are additional items that we need to accomplish this year that take precedence. Mr. Cozad noted he does have an outline for the Strategic Plan, but agrees with President Corneille.

6. INFORMATION ITEMS:

A. General Manager's Report

Mr. Cozad indicated the written report in the package on page 101 covered significant activities. He noted that the District closed out the year at 9000 AF recharged. He commended the Field Staff on capturing and putting the water into the ground in a dry year. Mr. Cozad recommended selecting an Ad Hoc Audit Committee meeting date; the Committee selected the 17th at 1:30 p.m. District Intern Staff have finished the edits to the Operations and Maintenance Manual; it has been uploaded to the website.

The EBX extension walk is scheduled for some time next week. President Corneille asked that Randy Carlisle be present for that walk if available.

B. Monthly Recharge Report

This item was discussed previously.

C. Wash Plan Status Update

The District has submitted through RBF the proposed habitat conservation strategy map to the US Fish and Wildlife Service and is waiting to hear back next week. It includes more habitat than the prior plan but minimizes the impact on mining areas. There will be an update sent out to the Task Force in the near future.

D. Future Agenda Items & Staff Task requests from Directors

President Corneille noted that there will be an upcoming ACWA\JPIA Sexual Harassment Training session here at the District on November 1st at 9 a.m.

Staff is planning the December 12th Holiday Luncheon offsite.

7. MONTHLY BOARD MEMBER COMMITTEE ACTIVITY REPORTS, AND /OR COMMENTS BY BOARD MEMBERS

Director Activity Reports

Director Day made no report.

Director Glaubig attended the Highland Trails Committee Meeting where he discussed the use of District property. The Highland Trails Committee had already chosen a route for 2013, but are keeping us in mind for 2014. He also attended the Harmony Project Public Meeting. The new Greenspot Bridge will be four lanes, but only two will be initially usable. The new realignment of Greenspot Road will run into the Harmony community. There are no plans for a Mill Creek bridge. . They are predicting 3300 acre ft. per year of water usage. The Harmony Project is approximately 3300 units which will potentially create congestion in regards to traffic.

Director McDonald attended SBVMWD's workshop and Board meeting. She also attended the SBACC Legislative Breakfast with Senator Bob Dutton.

Director Aranda attended the CSDA Annual Conference in San Diego where he took his Ethics Training. Also, he will present a presentation at SBACC titled Water 101.

Director Raley attended the city managers briefing on repairing the streets in Redlands in which the trash rates will go up to cover these costs.

President Corneille noted that he was gone on vacation during most of the period between meetings and has no report.

8. UPCOMING MEETINGS

President Corneille noted to add the November 1st Sexual Harassment meeting to the listing of meetings.

9. ADJOURN MEETING

It was moved by Director Day and seconded by Director McDonald to adjourn to the next scheduled meeting. The motion carried 6-0 with Director Longville noted absent.

At 3:40 p.m. the meeting adjourned to the Public Hearing on Redistricting scheduled for October 31, 2012 at 1:30 p.m., at District Headquarters, 1630 W. Redlands Blvd., Redlands, CA.

Daniel B. Cozad
General Manager

RESOLUTION NO. 483

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
IN RECOGNITION OF 27 YEARS OF PUBLIC SERVICE TO THE WATER
INDUSTRY BY RETIRING EAST VALLEY WATER DISTRICT GENERAL
MANAGER**

ROBERT E. MARTIN

WHEREAS, Robert E. Martin has honorably served the East Valley Water District in several positions as Associate Civil Engineer, Assistant District Engineer, District Engineer, Assistant General Manager, and General Manager for 27 years from March 19, 1984 to November 30, 2011; and,

WHEREAS, his local knowledge, experience, leadership and commitment contributed greatly to improving the water quality of the San Bernardino Groundwater Basin, and the infrastructure of the East Valley Water District; and,

WHEREAS, he actively served in both State and Federal lobbying efforts and with ACWA on critical water issues, on the Board of Governors and Legislative Review Committee of CMUA, with the American Water Works Association Research Foundation to develop treatment technologies and Federal funding to meet new water quality regulations, and as the Legislative Budget Committee Chairman for WESTCAS; and,

WHEREAS, he has tirelessly worked on water supply facility improvements and made a commitment to supplying water of high quality in the face of increased water quality regulations; and,

WHEREAS, under his leadership East Valley Water District has worked closely with the San Bernardino Valley Water Conservation District on increasing groundwater recharge and improving water quality for the entire basin; and,

WHEREAS, his valued support of our groundwater spreading operations and the District's mission has been greatly appreciated, and he will truly be missed;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Board of Directors of the San Bernardino Valley Water Conservation District, express to Robert E. Martin, their gratitude and sincere appreciation for the service and support he has rendered.

DATED: October 31, 2012

Richard Corneille
President

Melody McDonald
Vice President

Manuel Aranda
Director

Clare Henry Day
Director

Bob Glaubig
Director

John Longville
Director

David Raley
Director

Daniel B. Cozad
Secretary



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
www.sbvwd.dst.ca.us

Memorandum No. 1131

To: Board of Directors

From: General Manager, Daniel Cozad

Date: October 31, 2012

Subject: 2012 Audit Report Presentation

RECOMMENDATION

The Ad Hoc Audit Committee (Committee) recommends the Board review and accept the 2012 Audit Report presented by Charles Fedak & Company.

BACKGROUND

Charles Fedak and Company was selected by the Board and performed the 2011 fiscal year audit. The auditor contract is a one year agreement with two, one year extensions subject to evaluation of performance. Staff working with the Committee recommended performing the 2012 audit under the same contract. The Committee met on August 17, 2012 to discuss the audit and planned schedule. Staff and support contract worked together produce materials. The auditor reviewed and prepared a preliminary draft report and presented it to the Committee on October 17, 2012. The Auditor made the requested clarifications and updates and prepared the report and management letter attached to this memo for presentation and approval. As indicated by the management letter the audit is a “clean” audit and staff addressed all recommendations from the 2011 management letter.

DISCUSSION

Chris Brown, CPA will present the Audit and Management Reports and respond to any questions the Board may have.

FISCAL IMPACT

The audit was conducted in accordance with the approved 2012-2013 budget.

BOARD
OF
DIRECTORS

Richard W. Corneille
Clare Henry Day

Bob Glaubig
John Longville

David E. Raley
Melody McDonald
Manuel Aranda, Jr.

GENERAL
MANAGER

Daniel B. Cozad



San Bernardino Valley Water Conservation District
Annual Financial Report
For the Fiscal Years Ended June 30, 2012 and 2011



Service Since 1932

San Bernardino Valley Water Conservation District

Board of Directors as of June 30, 2012

| <u>Name</u> | <u>Division</u> | <u>Title</u> | <u>Current Term Ending</u> |
|---------------------------|-----------------|----------------|--------------------------------|
| Richard Corneille | 1 | President | December 14, 2015 |
| Melody Henriques-McDonald | 6 | Vice-President | December 04, 2013 |
| Clare Henry Day | 2 | Director | December 04, 2013 |
| Bob Glaubig | 3 | Director | December 17, 2015 |
| John Longville | 4 | Director | December 04, 2013 |
| David E. Raley | 5 | Director | December 04, 2013 |
| Manuel Aranda Jr. | 7 | Director | December 14, 2015 |

San Bernardino Valley Water Conservation District

Daniel B. Cozad, General Manager

1630 West Redlands Blvd., Suite A

PO Box 1839

Redlands, California 92373

(909) 793-2503 – www.sbvwd.org

San Bernardino Valley Water Conservation District
Annual Financial Report
For the Fiscal Years Ended June 30, 2012 and 2011

DRAFT

**San Bernardino Valley Water Conservation District
Annual Financial Report
For the Fiscal Years Ended June 30, 2012 and 2011**

Table of Contents

| | <u>Page No.</u> |
|---|------------------------|
| Table of Contents | i |
| Introductory Section | |
| Letter of Transmittal | 1-3 |
| Financial Section | |
| Independent Auditor's Report | 4-5 |
| Management's Discussion and Analysis | 6-10 |
| Basic Financial Statements: | |
| Statements of Net Assets | 11 |
| Statements of Revenues, Expenses and Changes in Net Assets | 12 |
| Statements of Cash Flows | 13-14 |
| Statements of Fiduciary Net Assets – Agency Fund | 15 |
| Notes to the Basic Financial Statements | 16-29 |
| Required Supplementary Information Section | |
| Schedule of Funding Progress – Other Post-Employment Benefits (OPEB) Plan | 30 |
| Supplemental Information Section | |
| Schedules of Operating Revenues and Expenses | 31 |
| Schedules of Wash Plan Revenues and Expenses | 32 |
| Report on Internal Controls and Compliance | |
| Independent Auditor's Report on Internal Control Over Financial Reporting And on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i> | 33 |

Introductory Section

DRAFT



September 28, 2012

Board of Directors
San Bernardino Valley Water Conservation District

Introduction

It is our pleasure to submit the Annual Financial Report for the San Bernardino Valley Water Conservation District (District) for the fiscal years ended June 30, 2012 and 2011 following guidelines set forth by the Governmental Accounting Standards Board. District staff prepared this financial report. The District is ultimately responsible for both the accuracy of the data and the completeness and the fairness of presentation, including all disclosures in this financial report. We believe that the data presented is accurate in all material respects. This report is designed in a manner that we believe necessary to enhance your understanding of the District's financial position and activities.

This report is organized into two sections: (1) Introductory and (2) Financial. The Introductory section offers general information about the District's organization and current District activities and reports on a summary of significant financial results. The Financial section includes the Independent Auditor's Report, Management's Discussion and Analysis of the District's basic financial statements, and the District's audited basic financial statements with accompanying Notes.

Generally Accepted Accounting Principles (GAAP) requires that management provide a narrative introduction, overview and analysis to accompany the financial statements in the form of the Management's Discussion and Analysis (MD&A) section. This letter of transmittal is designed to complement the MD&A and should be read in conjunction with it. The District's MD&A can be found immediately after the Independent Auditor's Report.

District Structure and Leadership

The San Bernardino Valley Water Conservation District is an independent special district, which operates under the authority of Division 21 of the California Water Code. The origin of the District dates from 1909 when the Water Conservation Association was formed to conserve water in the region. The District was formed in 1932 as the successor agency to the Water Conservation Association by a vote of the people. The District is governed by a seven-member Board of Directors, elected by division from within the District's service area. The General Manager administers the day-to-day operations of the District in accordance with policies and procedures established by the Board of Directors. The District employs approximately six regular employees, three in the field and three in the office. The District's Board of Directors meets each month. Meetings are publicly noticed and the public and the press are encouraged to attend its meetings and workshops.

District Services

The San Bernardino Valley Water Conservation District recharges the groundwater basin protecting the safe yield of the San Bernardino Bunker Hill Basin and benefits all of the cities, districts and agricultural and non-agricultural groundwater producers within the District's boundaries.

To accomplish the recharge, the District maintains 71 water percolation basins in the Mill Creek and Santa Ana River spreading grounds. The District also plans for, maintains, or leases over 2000 acres in the Santa Ana River Wash at and below the confluence of the Santa Ana River and Mill Creek. Water year 2012 was a dry year; the District recharged all available water for recharge into the groundwater basin which amounted to approximately 11,000 acre feet.

Economic Condition and Outlook

The District is located at a strategic point in the watershed in the East end of the San Bernardino Valley. The Valley has experienced significant economic growth within the Inland Empire over the past few years however, the downturn in building and the larger economy in general greatly impacted the District's revenues. With the overall downturn in building, the District has experienced a reduction in mining royalties collected on aggregate mined from District leased properties. In late 2011, the District negotiated a new land lease and mining agreement with CEMEX which provides for minimum annual guaranteed revenue. The effect of this change is beginning to be realized and will help to mitigate future revenue variability. As the District's water production and Groundwater Charge revenue may be affected by these overall economic conditions, the District's commitment to cost reductions and rate changes have served to reduce the structural deficit.

The broader economic outlook for the Inland Empire is slowly improving from the worst of the prolonged real estate recession. Historically, the Inland Empire will recover somewhat slower than Los Angeles and the Coastal areas of Southern California. The ongoing financial crisis that has impacted the District is forecast to continue for the next few years. The California State budget deficit may also impact the District due to reductions in grants and reduced property tax revenues.

Internal Control Structure

District management is responsible for the establishment and maintenance of the internal control structure that ensures the assets of the District are protected from loss, theft or misuse. The internal control structure also ensures adequate accounting data is compiled to allow for the preparation of financial statements in conformity with generally accepted accounting principles. The District's internal control structure is designed to provide reasonable assurance that these objectives are met with the limited staff at the District. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived, and (2) the valuation of costs and benefits requires estimates and judgments by management. The District accomplishes this with very minimal staffing.

Budgetary Control

The District's Board of Directors annually adopts an operating and capital budget prior to the beginning of the new fiscal year. The budget authorizes and provides the basis for reporting and control of financial operations and accountability for the District's enterprise operations and capital projects. The budget and reporting treatment applied to the District is consistent with the accrual basis of accounting and the financial statement basis.

In 2011, the District's board of Directors adopted an enterprise model for financial management as well as reserve and other pertinent policies to implement the enterprise model. These changes are intended to provide better internal accountability and provide greater public transparency. Most changes were implemented throughout fiscal year 2011; however, some changes were not made until the budget was approved for fiscal year 2012. As a result, not all reports reflect the full enterprise format. This changeover also limits detailed comparability with prior years. Summary agency-wide reports are still provided and coordinated with prior years.

Investment Policy

The Board of Directors has adopted an investment policy that conforms to state law, District ordinance and resolutions, prudent money management, and the “prudent person” standards. The objective of the Investment Policy is safety, liquidity and yield. District funds are invested in the State Treasurer’s Local Agency Investment Fund, the Investment Trust of California (CalTRUST), and an institutional checking accounts.

District Revenues

State law and District policy ensure that all revenues from groundwater charges generated from District production support District operations. Groundwater Charge rates are set in accordance with section 75500 of the California Water Code. Groundwater charges are levied on all groundwater producing agricultural and non-agricultural facilities within the District boundaries. This is the primary component of the District’s revenue. The District has agreements with other entities to seek reimbursement for recharge of water on their behalf. Revenue is also comprised of royalties from aggregate mining, property leases, and interest on reserves.

Audit and Financial Reporting

State Laws require the District to obtain an annual audit of its financial statements by an independent certified public accountant. The accounting firm of Charles Z. Fedak & Company, CPAs has conducted the audit of the District’s financial statements. Their unqualified Independent Auditor’s Report appears in the Financial Section.

Other References

More information is contained in the Management’s Discussion and Analysis and the Notes to the Basic Financial Statements found in the Financial Section of the report.

Acknowledgements

Preparation of this report was accomplished by the combined efforts of District staff. We appreciate the dedicated efforts and professionalism that these staff members contribute to the District. We would also like to thank the members of the Ad Hoc Audit Committee and the Board of Directors for their continued support in planning and implementation of the San Bernardino Valley Water Conservation District’s fiscal policies.

Respectfully submitted,

Daniel B. Cozad
General Manager

Financial Section

DRAFT



Charles Z. Fedak, CPA, MBA
Paul J. Kaymark, CPA
Christopher J. Brown, CPA

Charles Z. Fedak & Company

Certified Public Accountants
An Accountancy Corporation

6081 Orange Avenue
Cypress, California 90630
(714) 527-1818
(562) 598-6565
FAX (714) 527-9154
EMAIL czfco@czfcpa.com
WEB www.czfcpa.com

Independent Auditor's Report

Board of Directors
San Bernardino Valley Water Conservation District
Redlands, California

We have audited the accompanying financial statements of the San Bernardino Valley Water Conservation District (District) as of and for the fiscal years ended June 30, 2012 and 2011, which collectively comprise the District's basic financial statements as listed in the table of contents. These basic financial statements are the responsibility of the District's management. Our responsibility is to express an opinion on these basic financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the State Controller's Minimum Audit Requirements for California Special Districts. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the basic financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall basic financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the basic financial statements referred to above present fairly, in all material respects, the respective financial position of the San Bernardino Valley Water Conservation District as of June 30, 2012 and 2011, and the respective changes in net assets and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued a report dated September 28, 2012 on our consideration of the District's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit. This report can be found on page 33.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 6 through 10 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context.

Independent Auditor's Report, continued

We have applied certain limited procedures to the required supplementary information, on page 30, in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audits of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audits were conducted for the purpose of forming an opinion on the financial statements that collectively comprise the District's basic financial statements as a whole. The introductory section on pages 1 through 3 and the supplemental information on pages 31 through 32 are presented for purposes of additional analysis and are not required parts of the basic financial statements. The supplementary information is the responsibility of management and was derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audits of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the basic financial statements taken as a whole. The introductory section has not been subjected to the auditing procedures applied in the audits of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on the section.

Charles Z. Fedak & Company, CPA's – An Accountancy Corporation

Cypress, California

September 28, 2012

San Bernardino Valley Water Conservation District
Management's Discussion and Analysis
For the Fiscal Years Ended June 30, 2012 and 2011

The following Management's Discussion and Analysis (MD&A) of activities and financial performance of the San Bernardino Valley Water Conservation District (District) provides an introduction to the financial statements of the District for the fiscal years ended June 30, 2012 and 2011. We encourage readers to consider the information presented here in conjunction with the transmittal letter in the Introductory Section and with the basic financial statements and related notes, which follow this section.

Financial Highlights

- The District's net assets increased 2.7% or \$76,259 to \$2,958,889 in fiscal year 2012 as the result of operations. In 2011, the District's net assets decreased 4.8 % or \$145,659 to \$2,882,630 as the result of operations.
- The District's operating revenues increased 36.0% or \$227,024 in 2012 primarily due to a \$69,726 increase in groundwater assessments and a \$157,298 increase in water spreading revenues. In 2011, the District's operating revenues increased 36.3% or \$168,113 primarily due to an increase in groundwater assessments.
- The District's non-operating revenues increase by 12.0% or \$54,720 in 2012 due primarily to a \$153,958 increase in royalty revenues and a \$38,858 increase in rental income that was offset by a \$160,343 decrease in other non-operating revenues. In 2011, non-operating revenues increased by 37.0% or \$122,955 due primarily to a \$180,441 increase in miscellaneous revenues that was offset by a decrease in royalty income of \$29,260 and a decrease in rental income of \$10,060.
- The District's operating expenses increased 1.3% or \$13,469 in 2012 primarily due to increases in staff salaries of \$41,894, equipment costs of \$56,255, and election related Director's fees and expenses of \$31,490, which was offset by a decrease in professional services expense in the amount of \$113,636. In 2011, operating expenses decreased 48.8% or \$1,011,955 in 2011 primarily due to decreases in professional services expenses of \$315,365, benefits expenses of \$138,690, staff salaries expenses of \$276,675, regional program expenses of \$170,131, and general and administrative expenses of \$89,183.
- The District's non-operating expenses increased 84.3% or \$52,119 in 2012 primarily due to a \$34,198 increase in rental property expense and a \$20,222 decrease in the fair-market value of investments at fiscal year-end. In 2011, non-operating expenses decreased 27.7% or \$23,718 primarily due to a \$19,980 decrease in rental property expense.

Required Financial Statements

This annual report consists of a series of financial statements. The Statement of Net Assets, Statement of Revenues, Expenses and Changes in Net Assets and Statement of Cash Flows provide information about the activities and performance of the District using accounting methods similar to those used by private sector companies.

The Statement of Net Assets includes all of the District's investments in resources (assets) and the obligations to creditors (liabilities). It also provides the basis for computing a rate of return, evaluating the capital structure of the District and assessing the liquidity and financial flexibility of the District. All of the current year's revenue and expenses are accounted for in the Statement of Revenues, Expenses and Changes in Net Assets. This statement measures the success of the District's operations over the past year and can be used to determine if the District has successfully recovered all of its costs through its rates and other charges. This statement can also be used to evaluate profitability and credit worthiness. The final required financial statement is the Statement of Cash Flows, which provides information about the District's cash receipts and cash payments during the reporting period.

San Bernardino Valley Water Conservation District
Management's Discussion and Analysis
For the Fiscal Years Ended June 30, 2012 and 2011

Required Financial Statements, Continued

The Statement of Cash Flows reports cash receipts, cash payments and net changes in cash resulting from operations, investing, non-capital financing, and capital and related financing activities and provides answers to such questions as where did cash come from, what was cash used for, and what was the change in cash balance during the reporting period.

Financial Analysis of the District

One of the most important questions asked about the District's finances is, "Is the District better off or worse off as a result of this year's activities?" The Statement of Net Assets and the Statement of Revenues, Expenses and Changes in Net Assets report information about the District in a way that helps answer this question.

These statements include all assets and liabilities using the *accrual basis of accounting*, which is similar to the accounting method used by most private sector companies. All of the current year's revenues and expenses are taken into account regardless of when the cash is received or paid.

These two statements report the District's *net assets* and changes in them. You can think of the District's net assets – the difference between assets and liabilities – as one way to measure the District's financial health, or *financial position*. Over time, *increases or decreases* in the District's net assets are one indicator of whether its *financial health* is improving or deteriorating. However, one will need to consider other non-financial factors such as changes in economic conditions, population growth, zoning and new or changed government legislation, such as changes in Federal and State water quality standards.

Notes to the Basic Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the basic financial statements. The notes to the basic financial statements can be found on pages 16 through 29.

Statements of Net Assets

Condensed Statements of Net Assets

| | <u>2012</u> | <u>2011</u> | <u>Change</u> |
|---|----------------------------|-------------------------|-------------------------|
| Assets: | | | |
| Current assets | \$ 6,688,131 | 6,737,318 | (49,187) |
| Capital assets, net | <u>1,373,408</u> | <u>1,460,704</u> | <u>(87,296)</u> |
| Total assets | <u>\$ 8,061,539</u> | <u>8,198,022</u> | <u>(136,483)</u> |
| Liabilities: | | | |
| Current liabilities | \$ 51,840 | 112,620 | (60,780) |
| Non-current liabilities | <u>5,050,810</u> | <u>5,202,772</u> | <u>(151,962)</u> |
| Total liabilities | <u>5,102,650</u> | <u>5,315,392</u> | <u>(212,742)</u> |
| Net assets: | | | |
| Invested in capital assets | 1,373,408 | 1,460,704 | (87,296) |
| Unrestricted | <u>1,585,481</u> | <u>1,421,926</u> | <u>163,555</u> |
| Total net assets | <u>2,958,889</u> | <u>2,882,630</u> | <u>76,259</u> |
| Total liabilities and net assets | <u>\$ 8,061,539</u> | <u>8,198,022</u> | <u>(136,483)</u> |

San Bernardino Valley Water Conservation District
Management's Discussion and Analysis
For the Fiscal Years Ended June 30, 2012 and 2011

Statement of Net Assets, Continued

As noted earlier, net assets may serve over time as a useful indicator of a government's financial position. In the case of the District, assets of the District exceeded liabilities by \$2,958,889 and \$2,882,630 as of June 30, 2012 and 2011, respectively.

By far the largest portion of the District's net assets, 46.4% as of June 30, 2012 and 50.7% as of June 30, 2011, reflects the District's investment in capital assets (net of accumulated depreciation). The District uses these capital assets to provide services to customers within the District's service area; consequently, these assets are not available for future spending.

At the end of fiscal years 2012 and 2011, the District showed a positive balance in its unrestricted net assets of \$1,585,481 and \$1,421,926, respectively, which may be utilized in future years.

Statements of Revenues, Expenses and Changes in Net Assets

Condensed Statements of Revenues, Expenses and Changes in Net Assets

| | <u>2012</u> | <u>2011</u> | <u>Change</u> |
|--|---------------------|------------------|------------------|
| Revenues: | | | |
| Operating revenues | \$ 858,490 | 631,466 | 227,024 |
| Non-operating revenues | 509,710 | 454,990 | 54,720 |
| Total revenues | <u>1,368,200</u> | <u>1,086,456</u> | <u>281,744</u> |
| Expenses: | | | |
| Operating expenses | 1,084,560 | 1,071,091 | 13,469 |
| Depreciation expense | 105,948 | 99,224 | 6,724 |
| Non-operating expenses | 113,919 | 61,800 | 52,119 |
| Total expenses | <u>1,304,427</u> | <u>1,232,115</u> | <u>72,312</u> |
| Net income (loss) before capital contributions | 63,773 | (145,659) | 209,432 |
| Capital contributions: | <u>12,486</u> | <u>-</u> | <u>12,486</u> |
| Change in net assets | 76,259 | (145,659) | 221,918 |
| Net assets, beginning of year | <u>2,882,630</u> | <u>3,028,289</u> | <u>(145,659)</u> |
| Net assets, end of year | <u>\$ 2,958,889</u> | <u>2,882,630</u> | <u>76,259</u> |

The statement of revenues, expenses and changes of net assets shows how the District's net assets changed during the fiscal years. In the case of the District, net assets increased by \$76,259 and decreased by \$145,659 in fiscal years ended June 30, 2012 and 2011, respectively.

A closer examination of the sources of changes in net assets reveals that:

- The District's net assets increased 2.7% or \$76,259 to \$2,958,889 in fiscal year 2012 as the result of operations. In 2011, the District's net assets decreased 4.8 % or \$145,659 to \$2,882,630 as the result of operations.
- The District's operating revenues increased 36.0% or \$227,024 in 2012 primarily due to a \$69,726 increase in groundwater assessments and a \$157,298 increase in water spreading revenues. In 2011, the District's operating revenues increased 36.3% or \$168,113 primarily due to an increase in groundwater assessments.

San Bernardino Valley Water Conservation District
Management's Discussion and Analysis
For the Fiscal Years Ended June 30, 2012 and 2011

Statements of Revenues, Expenses and Changes in Net Assets, Continued

- The District's non-operating revenues increase by 12.0% or \$54,720 in 2012 due primarily to a \$153,958 increase in royalty revenues and a \$38,858 increase in rental income that was offset by a \$160,343 decrease in other non-operating revenues. In 2011, non-operating revenues increase by 37.0% or \$122,955 due primarily to a \$180,441 increase in miscellaneous revenues that was offset by a decrease in royalty income of \$29,260 and a decrease in rental income of \$10,060.
- The District's operating expenses increased 1.3% or \$13,469 in 2012 primarily due to increases in staff salaries of \$41,894, equipment costs of \$56,255, and election related Director's fees and expenses of \$31,490, which was offset by a decrease in professional services expense in the amount of \$113,636. In 2011, operating expenses decreased 48.8% or \$1,011,955 in 2011 primarily due to decreases in professional services expenses of \$315,365, benefits expenses of \$138,690, staff salaries expenses of \$276,675, regional program expenses of \$170,131, and general and administrative expenses of \$89,183.
- The District's non-operating expenses increased 84.3% or \$52,119 in 2012 primarily due to a \$34,198 increase in rental property expense and a \$20,222 decrease in the fair-market value of investments at fiscal year-end. In 2011, non-operating expenses decreased 27.7% or \$23,718 primarily due to a \$19,980 decrease in rental property expense.

Capital Asset Administration

At the end of fiscal years 2012 and 2011, the District's investment in capital assets amounted to \$1,373,408 and \$1,460,704, respectively, net of accumulated depreciation. This investment in capital assets includes land, diversion facilities, recharge basins, buildings, equipment, and vehicles, etc. Major capital assets additions during the year include improvements the District's buildings and equipment.

Changes in capital assets in 2012 were as follows:

| | Balance 2011 | Additions | Disposals/ Transfers | Balance 2012 |
|--------------------------|-------------------------|------------------|---------------------------------|-------------------------|
| Capital assets: | | | | |
| Non-depreciable assets | \$ 219,383 | - | - | 219,383 |
| Depreciable assets | 2,118,148 | 18,652 | - | 2,136,800 |
| Accumulated depreciation | (876,827) | (105,948) | - | (982,775) |
| Total capital assets | <u>\$ 1,460,704</u> | <u>(87,296)</u> | <u>-</u> | <u>1,373,408</u> |

Changes in capital assets in 2011 were as follows:

| | Balance 2010 | Additions | Disposals/ Transfers | Balance 2011 |
|--------------------------|-------------------------|------------------|---------------------------------|-------------------------|
| Capital assets: | | | | |
| Non-depreciable assets | \$ 219,383 | - | - | 219,383 |
| Depreciable assets | 2,039,273 | 78,875 | - | 2,118,148 |
| Accumulated depreciation | (777,607) | (99,220) | - | (876,827) |
| Total capital assets | <u>\$ 1,481,049</u> | <u>(20,345)</u> | <u>-</u> | <u>1,460,704</u> |

San Bernardino Valley Water Conservation District
Management's Discussion and Analysis
For the Fiscal Years Ended June 30, 2012 and 2011

Conditions Affecting Current Financial Position

Management is unaware of any conditions which could have a significant impact on the District's current financial position, net assets or operating results based on past, present and future events.

Requests for Information

This financial report is designed to provide the District's funding sources, customers, stakeholders and other interested parties with an overview of the District's financial operations and financial condition. Should the reader have questions regarding the information included in this report or wish to request additional financial information, please review the District website at www.sbvwd.org or contact the District's General Manager at 1630 West Redlands Blvd, Suite A, PO Box 1839, Redlands, CA 92373

DRAFT

Basic Financial Statements

DRAFT

San Bernardino Valley Water Conservation District
Statements of Net Assets
June 30, 2012 and 2011

| <i>Assets</i> | 2012 | 2011 |
|--|----------------------------|-------------------------|
| Current assets: | | |
| Cash and cash equivalents (note 2) | \$ 6,194,467 | 6,360,057 |
| Accounts Receivable | 30,000 | - |
| Assessments receivable | 295,155 | 259,051 |
| Interest receivable | 5,103 | 7,446 |
| Advances to Wash Plan (note 3) | 161,906 | 110,764 |
| Prepaid expense | 1,500 | - |
| Total current assets | <u>6,688,131</u> | <u>6,737,318</u> |
| Non-current assets: | | |
| Capital assets not being depreciated (note 4) | 219,383 | 219,383 |
| Depreciable capital assets (note 4) | 1,154,025 | 1,241,321 |
| Total non-current assets | <u>1,373,408</u> | <u>1,460,704</u> |
| Total assets | <u><u>\$ 8,061,539</u></u> | <u><u>8,198,022</u></u> |
| <hr/> <i>Liabilities</i> <hr/> | | |
| Current liabilities: | | |
| Accounts payable and accrued expenses | \$ 23,032 | 35,397 |
| Accrued wages and related payables | 9,593 | 18,735 |
| Customer deposits | 4,717 | 5,825 |
| Long-term liabilities – due in less than one year: | | |
| Compensated absences (note 5) | 14,498 | 39,934 |
| Pension-related debt (note 7) | - | 12,729 |
| Total current liabilities | <u>51,840</u> | <u>112,620</u> |
| Non-current liabilities: | | |
| Deferred revenue (note 6) | 5,000,000 | 5,000,000 |
| Long-term liabilities – due in more than one year: | | |
| Compensated absences (note 5) | 48,848 | 29,864 |
| Other post-employment benefits payable (note 9) | 1,962 | 962 |
| Pension-related debt (note 7) | - | 171,946 |
| Total non-current liabilities | <u>5,050,810</u> | <u>5,202,772</u> |
| Total liabilities | <u>5,102,650</u> | <u>5,315,392</u> |
| Net assets: (note 10) | | |
| Investment in capital assets | 1,373,408 | 1,460,704 |
| Unrestricted | 1,585,481 | 1,421,926 |
| Total net assets | <u>2,958,889</u> | <u>2,882,630</u> |
| Total net assets and liabilities | <u><u>\$ 8,061,539</u></u> | <u><u>8,198,022</u></u> |

See accompanying notes to the basic financial statements

San Bernardino Valley Water Conservation District
Statements of Revenues, Expenses and Changes in Net Assets
For the Fiscal Year Ended June 30, 2012 and 2011

| | <u>2012</u> | <u>2011</u> |
|--|----------------------------|-------------------------|
| Operating revenues: | | |
| Groundwater assessments | \$ 671,192 | 601,466 |
| Water spreading operations | 157,298 | - |
| Services for other agencies | <u>30,000</u> | <u>30,000</u> |
| Total operating revenues | <u>858,490</u> | <u>631,466</u> |
| Operating expenses: | | |
| Water spreading operations | 889,821 | 900,990 |
| Regional programs | 1,028 | 2,194 |
| General and administrative | <u>193,711</u> | <u>167,907</u> |
| Total operating expenses | <u>1,084,560</u> | <u>1,071,091</u> |
| Operating loss before depreciation expense | (226,070) | (439,625) |
| Depreciation expense | <u>(105,948)</u> | <u>(99,224)</u> |
| Operating loss | <u>(332,018)</u> | <u>(538,849)</u> |
| Non-operating revenue(expense): | | |
| Property taxes | 76,976 | 79,880 |
| Royalty income | 201,064 | 47,106 |
| Rental income | 159,824 | 120,966 |
| Interest earnings | 55,030 | 29,879 |
| Decrease in fair-market value of investments | (20,222) | - |
| Rental property expense | (81,957) | (47,759) |
| Interest expense | (11,740) | (14,041) |
| Other non-operating revenue(expense), net | <u>16,816</u> | <u>177,159</u> |
| Total non-operating revenues, net | <u>395,791</u> | <u>393,190</u> |
| Capital contributions: | | |
| Grant revenue | <u>12,486</u> | <u>-</u> |
| Total capital contributions | <u>12,486</u> | <u>-</u> |
| Change in net assets | <u>76,259</u> | <u>(145,659)</u> |
| Net assets, beginning of year | <u>2,882,630</u> | <u>3,028,289</u> |
| Net assets, end of year | <u><u>\$ 2,958,889</u></u> | <u><u>2,882,630</u></u> |

See accompanying notes to the basic financial statements

San Bernardino Valley Water Conservation District
Statements of Cash Flows
For the Fiscal Year Ended June 30, 2012 and 2011

| | <u>2012</u> | <u>2011</u> |
|---|---------------------|--------------------|
| Cash flows from operating activities: | | |
| Cash received from groundwater assessments and other agencies | \$ 792,386 | 594,415 |
| Cash paid to employees for salaries and wages | (595,525) | (372,770) |
| Cash paid to vendors and suppliers for materials and services | (522,008) | (529,005) |
| Net cash used in operating activities | <u>(325,147)</u> | <u>(307,360)</u> |
| Cash flows from capital financing activities: | | |
| Acquisition of capital assets | (18,652) | (78,875) |
| Net cash used in capital financing activities | <u>(18,652)</u> | <u>(78,875)</u> |
| Cash flows from non-capital financing activities: | | |
| Property taxes | 76,976 | 79,880 |
| Royalty income | 201,064 | 47,106 |
| Rental revenue, net | 77,867 | 73,207 |
| Grants | 12,486 | - |
| Advances to Wash Plan | (51,142) | (68,875) |
| Principal payment on pension debt | (184,675) | (6,662) |
| Interest paid on pension debt | (11,740) | (14,041) |
| Net cash provided by non-capital financing activities | <u>120,836</u> | <u>110,615</u> |
| Cash flows from investing activities: | | |
| Interest earnings | 57,373 | 21,793 |
| Net cash provided by investing activities | <u>57,373</u> | <u>21,793</u> |
| Net decrease in cash | <u>(165,590)</u> | <u>(253,827)</u> |
| Cash and cash equivalent at the beginning of year | <u>6,360,057</u> | <u>6,613,884</u> |
| Cash and cash equivalent at the end of year | <u>\$ 6,194,467</u> | <u>6,360,057</u> |

Continued on next page

See accompanying notes to the basic financial statements

San Bernardino Valley Water Conservation District
Statements of Cash Flows, continued
For the Fiscal Year Ended June 30, 2012 and 2011

| | <u>2012</u> | <u>2011</u> |
|---|----------------------------|-------------------------|
| Reconciliation of operating loss to net cash used in operating activities: | | |
| Operating loss | \$ <u>(332,018)</u> | <u>(538,849)</u> |
| Adjustments to reconcile operating loss to net cash used in operating activities: | | |
| Depreciation | 105,948 | 99,224 |
| Other, net | (3,406) | 164,625 |
| Changes in assets and liabilities | | |
| (Increase) decrease in assets: | | |
| Accounts receivable | (30,000) | - |
| Assessments receivable | (36,104) | (37,051) |
| Prepaid expense | (1,500) | 10,830 |
| Increase (decrease) in liabilities: | | |
| Accounts payable and accrued expenses | (12,365) | (25,988) |
| Accrued wages and related payables | (9,142) | 10,584 |
| Customer deposits | (1,108) | - |
| Compensated absences | (6,452) | 8,303 |
| Other post employment benefits payable | <u>1,000</u> | <u>962</u> |
| Total adjustments | <u>6,871</u> | <u>231,489</u> |
| Net cash used in operating activities | \$ <u><u>(325,147)</u></u> | <u><u>(307,360)</u></u> |
| Non-cash investing, capital and financing transactions: | | |
| Change in fair-market value of investments | \$ <u><u>10,357</u></u> | <u><u>9,865</u></u> |

See accompanying notes to the basic financial statements

San Bernardino Valley Water Conservation District
Statements of Fiduciary Net Assets - Agency Fund
For the Fiscal Year Ended June 30, 2012 and 2011

| <i>Assets</i> | 2012 | 2011 |
|----------------------------|-------------------|----------------|
| Cash and cash equivalents | \$ - | 29,443 |
| Due from other governments | 161,906 | 81,321 |
| Total assets | \$ 161,906 | 110,764 |
| | | |
| <i>Liabilities</i> | | |
| Due to other governments | \$ 161,906 | 110,764 |
| Total liabilities | \$ 161,906 | 110,764 |

See accompanying notes to the basic financial statements

DRAFT

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(1) Reporting Entity and Summary of Significant Accounting Policies

A. Organization and Operations of the Reporting Entity

The San Bernardino Valley Water Conservation District (District) was formed in 1932 under the statutory authority of the California Water Code. Its function is to conduct water spreading operations by capturing flood flows of the Santa Ana River and Mill Creek. Spreading enables the water to percolate into the groundwater basin for the benefit of all producers.

The District is comprised of approximately 50,000 acres of land. Within its boundaries are several municipal water purveyors, public utilities, and other (mutual and private) companies who supply water needs. The source of such water is the groundwater basin underlying the District, of which an average of 150,000 acre-feet per year is extracted through some 300 producing wells by approximately 150 different producers.

The criteria used in determining the scope of the financial reporting entity is based on the provisions of Governmental Accounting Statements No. 14, *The Financial Reporting Entity*, and No. 39, *Determining Whether Certain Organizations Are Component Units* (an amendment of No. 14). The District is the primary governmental unit based on the foundation of a separately elected governing board that is elected by the citizens in a general popular election. Component units are legally separate organizations for which the elected officials of the primary government are financially accountable. The District is financially accountable if it appoints a voting majority of the organization's governing body and: 1) It is able to impose its will on that organization, or 2) There is a potential for the organization to provide specific financial benefits to, or impose specific financial burdens on, the primary government.

B. Basis of Accounting and Measurement Focus

The District reports its activities as an enterprise fund, which is used to account for operations that are financed and operated in a manner similar to a private business enterprise, where the intent of the District is that the costs of providing water to its service area on a continuing basis be financed or recovered primarily through user charges (water sales), capital grants and similar funding. Revenues and expenses are recognized on the full accrual basis of accounting. Revenues are recognized in the accounting period in which they are earned and expenses are recognized in the period incurred, regardless of when the related cash flows take place.

Operating revenues and expenses, such as water sales and water purchases, result from exchange transactions associated with the principal activity of the District. Exchange transactions are those in which each party receives and gives up essentially equal values. Management, administration and depreciation expenses are also considered operating expenses. Other revenues and expenses not included in the above categories are reported as non-operating revenues and expenses.

C. Financial Reporting

The District's basic financial statements are presented in conformance with the provisions of Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments* (GASB No. 34). This statement established revised financial reporting requirements for state and local governments throughout the United States for the purpose of enhancing the understandability and usefulness of financial reports.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(1) Reporting Entity and Summary of Significant Accounting Policies, Continued

C. Financial Reporting, continued

GASB No. 34 and its related GASB pronouncements provide for a revised view of financial information and restructure the format of financial information provided prior to its adoption. A statement of net assets replaces the balance sheet and reports assets, liabilities, and the difference between them as net assets, not equity. A statement of revenues, expenses and changes in net assets replaces both the income statement and the statement of changes in retained earnings and contributed capital. GASB No. 34 also requires that the statement of cash flows be prepared using the direct method. Under the direct method, cash flows from operating activities are presented by major categories.

Under GASB No. 34, enterprise funds, such as the District, have the option of consistently following or not following pronouncements issued by the Financial Accounting Standards Board (FASB) subsequent to November 30, 1989. The District has elected not to follow FASB standards issued after that date, unless such standards are specifically adopted by GASB.

D. Assets, Liabilities and Net Assets

1. Use of Estimates

The preparation of the basic financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported changes in net assets during the reporting period. Actual results could differ from those estimates.

2. Cash and Cash Equivalents

Substantially all of the District's cash is invested in interest bearing accounts. The District considers all highly liquid investments with a maturity of three months or less to be cash equivalents.

3. Investments

Changes in fair value that occur during a fiscal year are recognized as investment income reported for that fiscal year. Investment income includes interest earnings, changes in fair value, and any gains or losses realized upon the liquidation or sale of investments.

4. Property Taxes and Assessments

Secured property taxes are levied against real property and are due and payable in two equal installments. The first installment is due on November 1 and becomes delinquent if not paid by April 10. Unsecured personal property taxes are due on July 1 each year. These taxes become delinquent if not paid by August 31.

The District assesses its property taxes through the County tax rolls. Property taxes are recognized as revenue when they are both measurable and available.

5. Compensated Absences

The District records the cost of vested vacation and sick leave as it is earned. Vacation pay is payable to employees at the time vacation is taken or upon termination of employment. Employees may receive payment for unused sick leave upon termination according to a predetermined vesting schedule.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

D. Assets, Liabilities and Net Assets, Continued

6. Concentrations

The District has two primary sources of revenue. One is the groundwater charge levied to entities who extract water from the groundwater basin underlying the District. The amount of rainfall in the area as well as additional allocations of state project water to the neighboring water districts can have a significant effect on the amount of water extracted. The second major source of revenue is from mining activities on District property. The level of building activity in the region may have significant impact on mining revenues.

7. Capital Assets

Capital assets acquired and/or constructed are capitalized at historical cost. District policy has set the capitalization threshold for reporting capital assets at \$1,000 and an estimated useful life of five years. Donated assets are recorded at estimated fair market value at the date of donation. Upon retirement or other disposition of capital assets, the cost and related accumulated depreciation are removed from the respective balances and any gains or losses are recognized. Depreciation is recorded on a straight-line basis over the estimated useful lives of the assets as follows:

- Buildings – 40-50 years
- Vehicles and equipment – 5 – 10 years
- Office equipment – 3 – 10 years
- Field equipment – 5 – 10 years
- Spreading basins – 50+ years
- Improvements
 - Structural – 40 years
 - Furnishings – 10 years

8. Budgetary Policies

The District adopts an annual non-appropriated budget for planning, control, and evaluation purposes. Budgetary control and evaluation are affected by comparisons of actual revenues and expenses with planned revenues and expenses for the period. Encumbrance accounting is not used to account for commitments related to unperformed contracts for construction and services.

9. Net Assets

The financial statements utilize a net assets presentation. Net assets are categorized as follows:

- **Net Investment in Capital Assets** – This component of net assets consists of capital assets, net of accumulated depreciation and reduced by any outstanding debt against the acquisition, construction or improvement of those assets.
- **Restricted Net Assets** – This component of net assets consists of constraints placed on net assets use through external constraints imposed by creditors, grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation.
- **Unrestricted Net Assets** – This component of net assets consists of net assets that do not meet the definition of *restricted* or *net investment in capital assets*.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(2) Cash and Investments

Cash and investments as of June 30, are classified in the Statement of Net Assets as follows:

| | <u>2012</u> | <u>2011</u> |
|---------------------------------|----------------------------|-------------------------|
| Statement of Net Assets: | | |
| Cash and cash equivalents | \$ <u>6,194,467</u> | <u>6,360,057</u> |
| Agency Fund: | | |
| Cash and cash equivalents | <u>-</u> | <u>29,443</u> |
| Total cash and cash equivalents | \$ <u><u>6,194,467</u></u> | <u><u>6,389,500</u></u> |

Cash and investments as of June 30, consist of the following:

| | <u>2012</u> | <u>2011</u> |
|--|----------------------------|-------------------------|
| Cash on hand | \$ - | 200 |
| Deposits with financial institutions | 219,030 | 122,014 |
| Deposits held with the California Local Agency Investment Fund | 443,109 | 6,267,286 |
| Deposits held with the CalTRUST Medium-Term Fund | <u>5,532,328</u> | <u>-</u> |
| Total cash and investments | \$ <u><u>6,194,467</u></u> | <u><u>6,389,500</u></u> |

As of June 30, the District's authorized deposits had the following maturities:

| | <u>2012</u> | <u>2011</u> |
|--|-------------|-------------|
| California Local Agency Investment Fund | 268 days | 237 days |
| Investment Trust of California (CalTRUST Medium-Term Fund) | 675 days | 581 days |

Investments Authorized by the California Government Code and the District's Investment Policy

Under provisions of the District's investment policy, and in accordance with Section 53601 of the California Government Code, the District may invest the following types of investments:

- Securities of the U. S. Government, or its agencies
- Certificates of deposit (or time deposits) placed with commercial banks and/or savings and loan companies
- State of California – Local Agency Investment Fund (LAIF)
- Investment Trust of California – CalTRUST
- Checking accounts or passbook savings account demand deposits
- Money market mutual funds

The District's investment policy is to apply the prudent-person rule: Investments are made as a prudent person would be expected to act, with discretion and intelligence, to seek reasonable income, preserve capital and, in general, avoid speculative investments. The District's investment policy does not contain any specific provisions intended to limit its exposure to a concentration of credit risk.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(2) Cash and Investments, Continued

Custodial Credit Risk

Custodial credit risk for *deposits* is the risk that, in the event of the failure of a depository financial institution, a government will not be able to recover its deposits or will not be able to recover collateral securities that are in the possession of an outside party. The California Government Code and the District's investment policy does not contain legal or policy requirements that would limit the exposure to custodial credit risk for deposits, other than the following provision for deposits:

The California Government Code requires that a financial institution secure deposits made by state or local governmental units by pledging securities in an undivided collateral pool held by a depository regulated under state law (unless so waived by the governmental unit). The market value of the pledged securities in the collateral pool must equal at least 110% of the total amount deposited by the public agencies. Of the bank balances, up to \$250,000 held at each institution were federally insured and the remaining balance is collateralized in accordance with the Code; however, the collateralized securities are not held in the District's name.

The custodial credit risk for *investments* is the risk that, in the event of the failure of the counterparty (e.g., broker-dealer) to a transaction, a government will not be able to recover the value of its investment or collateral securities that are in the possession of another party. The Code and the District's investment policy contains legal and policy requirements that would limit the exposure to custodial credit risk for investments. With respect to investments, custodial credit risk generally applies only to direct investments in marketable securities. Custodial credit risk does not apply to a local government's indirect investment in securities through the use of mutual funds or government investment pools (such as LAIF).

Investment in State Investment Pool

The District is a voluntary participant in the Local Agency Investment Fund (LAIF) that is regulated by the California Government Code under the oversight of the Treasurer of the State of California. The fair value of the District's investment in this pool is reported in the accompanying financial statements at amounts based upon the District's pro-rata share of the fair value provided by LAIF for the entire LAIF portfolio (in relation to the amortized cost of that portfolio). The balance available for withdrawal is based on the accounting records maintained by LAIF, which are recorded on an amortized cost basis.

Interest Rate Risk

Interest rate risk is the risk that changes in market interest rates will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment the greater the sensitivity of its fair value to changes in market interest rates. One of the ways that the District manages its exposure to interest rate risk is by purchasing a combination of shorter term and longer term investments and by timing cash flows from maturities so that a portion of the portfolio matures or comes close to maturity evenly over time as necessary to provide for cash flow requirements and liquidity needed for operations.

Credit Risk

Credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. Presented below is the minimum rating required by (where applicable) the California Government Code, the District's investment policy, or debt agreements, and the actual rating as of year-end for each investment type.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(2) Cash and Investments, Continued

Concentration of Credit Risk

The District's investment policy contains no limitations on the amounts that can be invested in any one issuer as beyond that stipulated by the California Government Code. There were no investments in any one issuer (other than for U.S. Treasury securities, mutual funds, and external investment pools) that represent 5% or more of total District's investments at June 30, 2012 and 2011, respectively.

(3) Advance to Wash Plan

The District provides various funding for Wash Plan operations on behalf of interested parties. Amounts are to be reimbursed to the District based on the Plan's formative agreement.

Changes in advances to Wash Plan at June 30, were as follows:

| | <u>2011</u> | <u>Advances</u> | <u>Receipts</u> | <u>2012</u> |
|----|----------------|-----------------|-----------------|----------------|
| \$ | <u>110,764</u> | <u>51,142</u> | <u>-</u> | <u>161,906</u> |
| | <u>2010</u> | <u>Advances</u> | <u>Receipts</u> | <u>2011</u> |
| \$ | <u>41,889</u> | <u>68,875</u> | <u>-</u> | <u>110,764</u> |

(4) Capital Assets

Changes in capital assets for 2012 were as follows:

| | <u>Balance 2011</u> | <u>Additions</u> | <u>Disposals/ Transfers</u> | <u>Balance 2012</u> |
|---------------------------------|-------------------------|------------------|---------------------------------|-------------------------|
| Non-depreciable assets: | | | | |
| Land | \$ 219,383 | - | - | 219,383 |
| Total non-depreciable assets | <u>219,383</u> | <u>-</u> | <u>-</u> | <u>219,383</u> |
| Depreciable assets: | | | | |
| Buildings | 1,169,347 | 5,500 | - | 1,174,847 |
| Vehicles and equipment | 140,484 | - | - | 140,484 |
| Office equipment | 174,534 | - | - | 174,534 |
| Field equipment | 195,549 | 13,152 | - | 208,701 |
| Concrete basins | 330,192 | - | - | 330,192 |
| Improvements | 94,404 | - | - | 94,404 |
| Equipment | <u>13,638</u> | <u>-</u> | <u>-</u> | <u>13,638</u> |
| Total depreciable assets | <u>2,118,148</u> | <u>18,652</u> | <u>-</u> | <u>2,136,800</u> |
| Less accumulated depreciation: | <u>(876,827)</u> | <u>(105,948)</u> | <u>-</u> | <u>(982,775)</u> |
| Total accumulated depreciation: | <u>(876,827)</u> | <u>(87,296)</u> | <u>-</u> | <u>(982,775)</u> |
| Total capital assets, net | \$ <u>1,460,704</u> | | | <u>1,373,408</u> |

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(4) Capital Assets, Continued

Changes in capital assets for 2012 were as follows:

| | <u>Balance 2011</u> | <u>Additions</u> | <u>Disposals/ Transfers</u> | <u>Balance 2012</u> |
|---------------------------------|-------------------------|------------------|---------------------------------|-------------------------|
| Non-depreciable assets: | | | | |
| Land | \$ 219,383 | - | - | 219,383 |
| Total non-depreciable assets | <u>219,383</u> | <u>-</u> | <u>-</u> | <u>219,383</u> |
| Depreciable assets: | | | | |
| Buildings | 1,169,347 | 5,500 | - | 1,174,847 |
| Vehicles and equipment | 140,484 | - | - | 140,484 |
| Office equipment | 174,534 | - | - | 174,534 |
| Field equipment | 195,549 | 13,152 | - | 208,701 |
| Spreading basins | 330,192 | - | - | 330,192 |
| Improvements | 94,404 | - | - | 94,404 |
| Equipment | <u>13,638</u> | <u>-</u> | <u>-</u> | <u>13,638</u> |
| Total depreciable assets | <u>2,118,148</u> | <u>18,652</u> | <u>-</u> | <u>2,136,800</u> |
| Less accumulated depreciation: | <u>(876,827)</u> | <u>(105,948)</u> | <u>-</u> | <u>(982,775)</u> |
| Total accumulated depreciation: | <u>(876,827)</u> | <u>(87,296)</u> | <u>-</u> | <u>(982,775)</u> |
| Total capital assets, net | <u>\$ 1,460,704</u> | | | <u>1,373,408</u> |

(5) Compensated Absences

The changes to compensated absences balances at June 30, were as follows:

| <u>Balance 2011</u> | <u>Additions</u> | <u>Deletions</u> | <u>Balance 2012</u> | <u>Current</u> | <u>Long Term</u> |
|-------------------------|------------------|------------------|-------------------------|----------------|------------------|
| \$ 69,798 | 49,201 | (55,653) | 63,346 | 14,498 | 48,848 |
| <u>Balance 2010</u> | <u>Additions</u> | <u>Deletions</u> | <u>Balance 2011</u> | <u>Current</u> | <u>Long Term</u> |
| \$ 61,495 | 44,757 | (36,454) | 69,798 | 39,934 | 29,864 |

(6) Long-Term Debt

Deferred Revenue

During the fiscal year ended June 30, 1993, the District entered into an agreement for the extraction of rock, sand and gravel from its Section 7 property (Wash Area). As part of this agreement, the District received a \$5,000,000 prepayment against future rentals and royalties to be received. The lease terms initially called for a commencement date of December 31, 2002. The agreement was subsequently amended during the fiscal year ended June 30, 2003 and restated the date for the commencement of operations within the Wash Area to be upon the Wash Plan, which is currently slated for the fiscal year 2012-2013 or later. The initial term of the lease is for ten years with four successive five-year renewal periods, minimum annual rent of \$1,000,000, and a minimum aggregate excavation of 12,000,000 tons of material. In the event the lease is unable to obtain necessary permits for operations within the Wash Area within four years of commencement date, the amounts prepaid would then become refundable without interest, upon a one year notice.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(7) Pension-Related Debt

At of June 30, 2003, CalPERS implemented risk pooling for the District's multiple-employer public employee defined benefit pension plan. As a result, the District Plan converted from an agent multiple-employer plan to a cost sharing multiple-employer plan.

A portion of the District's annual required contributions are actuarially determined and shared by all employers of the risk pool, the District is also required to make payments to a Side Fund which was created when the District entered the risk pool. The responsibility for funding the Side Fund is specific to the District and is not shared by all employers in the Plan. Therefore, the Side Fund falls under the definition of pension-related debt, as described in GASB Statement No. 27. The payments on the Side Fund represent principal and interest payments on the pension-related debt. Interest is reported as interest expense and the principal is reported as a reduction of the liability. In 2012, the District paid off the remaining balance of the Side Fund.

Changes in the pension-related debt at June 30, is as follows:

Changes in pension related debt for 2012 were as follows:

| 2011 | Additions | Payments | 2012 |
|-------------|------------------|-----------------|-------------|
| 184,675 | - | (184,675) | - |
| 184,675 | - | (184,675) | - |

Changes in pension related debt for 2011 were as follows:

| 2010 | Additions | Payments | 2011 |
|-------------|------------------|-----------------|-------------|
| 191,337 | - | (6,662) | 184,675 |
| 191,337 | - | (6,662) | 184,675 |

(8) Defined Benefit Pension Plan

Plan Description

The District contributes to the California Public Employees Retirement System (CalPERS), a cost-sharing multi-employer defined benefit pension plan. CalPERS provides retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. CalPERS acts as a common investment and administrative agent for participating public agencies within the State of California. Benefit provisions and all other requirements are established by state statute and the Agency. Copies of CalPERS annual financial report may be obtained from their executive Office: 400 P Street, Sacramento, CA, 95814.

Funding Policy

The contribution rate for plan members in the CalPERS, under funding Policy 2.5% at 55 Risk Pool Retirement Plan is 7% of their annual covered salary and is paid 85% by the District. The District makes these contributions required of District employees on their behalf and for their account. Also, the District is required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The required employer contribution rates are equal to the annual pension costs (APC) percentage of payroll for fiscal years 2011, 2010 and 2009 as noted below. The contribution requirements of the plan members are established by State statute, and the employer contribution rate is established and may be amended by CalPERS. At fiscal year ended June 30, 2012 and 2011, the District did not have an unfunded pension liabilities. For Fiscal years 2011, 2010 and 2009, the District's annual contributions for the CalPERS plan were equal to the Agencies required and actual contributions for each fiscal year as follows:

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(8) Defined Benefit Pension Plan, Continued

Three Year Trend Information:

Three Year Trend Information:

| Fiscal Year | Annual Pension Cost (APC) | Percentage of APC Contributed | Net Pension Obligation | APC Percentage of Payroll |
|------------------------|--|--|---------------------------------------|--|
| 2009-2010 | 149,714 | 100% | - | 13.320% |
| 2010-2011 | 50,376 | 100% | - | 13.897% |
| 2011-2012 | 60,204 | 100% | - | 14.532% |

(9) Other Post –Employment Benefits Payable

The District implemented GASB Statement No. 45, which changed the accounting and financial reporting used by local government employers for post employment benefits. Previously, the costs of such benefits were generally recognized as expenses of local government employers on a pay-as-you-go basis. The new reporting requirements for these benefit programs as they pertain to the District are set forth below.

Plan Description – Eligibility

The District pays the level set by the Board for Employees for the cost of health insurance for retirees under the plans offered by the District until the retiree qualifies for Medicare, subject to limits determined by the Board of the District.

Membership in the OPEB plan consisted of the following members as of June 30:

| | 2012 | 2011 | 2010 |
|---|-------------|-------------|-------------|
| Active plan members | 5 | 5 | 8 |
| Retirees and beneficiaries receiving benefits | - | - | - |
| Separated plan members entitled to but not yet receiving benefits | - | - | - |
| Total plan membership | <u>5</u> | <u>5</u> | <u>8</u> |

Plan Description – Benefits

The District offers post-employment medical benefits to retired employees who satisfy the eligibility requirements. Spouses and surviving spouses are also eligible to receive benefits. Retirees may enroll in any medical plan available through the District. The contribution requirements of eligible retired employees and the District are established and may be amended by the Board of Directors

Funding Policy

The District is required to contribute the *Annual Required Contribution (ARC) of the Employer*, an amount actuarially determined in accordance with the parameters of GASB Statement No. 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover the normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) over a period not to exceed thirty years. The current ARC rate is 0.2% of the annual covered payroll.

The District will pay up to 100% of the cost of the post-employment benefit plan. The District funds the plan on a pay-as-you-go basis and maintains reserves (and records a liability) for the difference between pay-as-you-go and the actuarially determined ARC cost.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(9) Other Post –Employment Benefits Payable, Continued

Annual Cost

For the year ended June 30, 2012, the District's ARC cost was \$1,000 based on a 30 year amortization of the unfunded actuarial liability. The District's net OPEB obligation amounted to \$1,000 for the year ended June 30, 2012. The District contributed \$3,118 to reserves for future costs to fully fund its current liability for retirement medical benefits as of June 30, 2012. The District intends to budget this

The balance at June 30, consists of the following:

| | <u>2012</u> | <u>2011</u> | <u>2010</u> |
|---|-----------------|-------------|-------------|
| Annual OPEB expense: | | | |
| Annual required contribution (ARC) | \$ 1,000 | 962 | - |
| Interest on net OPEB obligation | - | - | - |
| Adjustment to annual required contribution | - | - | - |
| Total annual OPEB expense | <u>1,000</u> | <u>962</u> | <u>-</u> |
| Change in net OPEB payable obligation: | | | |
| Age adjusted contributions made | - | - | - |
| Total change in net OPEB payable obligation | <u>1,000</u> | <u>962</u> | <u>-</u> |
| OPEB payable – beginning of year | <u>962</u> | <u>-</u> | <u>-</u> |
| OPEB payable – end of year | <u>\$ 1,962</u> | <u>962</u> | <u>-</u> |

contribution for future years based on its reserve policy.

The District's annual OPEB cost, the percentage of the annual OPEB cost contributed to the Plan, and the net OPEB obligation for fiscal year 2012 and the two preceding years were as follows:

| <i>Three-Year History of Net OPEB Obligation</i> | | | | |
|---|-------------------------|----------------------------------|---|------------------------------------|
| Fiscal Year Ended | Annual OPEB Cost | Age Adjusted Contribution | Percentage of Annual OPEB Cost Contributed | Net OPEB Obligation Payable |
| 2012 | \$ 1,000 | - | 0.00% | \$ 1,000 |
| 2011 | 962 | - | 0.00% | 962 |
| 2010* | - | - | 0.00% | - |

* The information for the two preceding years is unavailable.
GASB No. 45 was implemented in fiscal year 2011.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(10) Net Assets

Calculation of net assets as of June 30, were as follows:

| | <u>2012</u> | <u>2011</u> |
|--------------------------------|---------------------|------------------|
| Unrestricted net assets: | | |
| Non-spendable net assets: | | |
| Prepaid expenses | \$ 1,500 | - |
| Total non-spendable net assets | <u>1,500</u> | <u>-</u> |
| Spendable net assets: | | |
| Spendable net assets | <u>1,583,981</u> | <u>1,421,926</u> |
| Total spendable net assets | <u>1,583,981</u> | <u>1,421,926</u> |
| Total unrestricted net assets | <u>1,585,481</u> | <u>1,421,926</u> |
| Total net assets | <u>\$ 2,958,889</u> | <u>2,882,630</u> |

(11) Lease Agreements

The District is the lessor, in various lease agreements, providing for the excavation and removal of rock, gravel, sand, and other materials from District property. Monthly lease payments are generally based on tonnage of materials removed, subject to annual minimum amounts.

The Redlands Plaza Enterprise Fund is the lessor of commercial building space under operating leases expiring in various years through the year ending in calendar year June 30, 2016.

Minimum future rentals to be received on non-cancelable leases as of June 30, are as follows:

| <u>Year</u> | <u>Redlands Plaza</u> |
|-------------|---------------------------|
| 2013 | \$ 119,325 |
| 2014 | 95,443 |
| 2015 | 92,064 |
| 2016 | 50,980 |
| 2017 | <u>14,275</u> |
| | <u>\$ 372,087</u> |

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(12) Risk Management

The District is exposed to various risks of loss related to torts, theft of, damage to and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The District is insured for a variety of potential exposures. The following is a summary of the insurance policies carried by the District as of June 30, 2012:

- Property: Actual property loss varying by property type with a \$1,000 deductible.
- Vehicles/Mobile Equipment: Actual property loss varying by equipment with a \$500/\$1000 deductible.
- General Liability: \$1,000,000 excess insurance per occurrence.
- Auto Liability: \$1,000,000
- Crime, Computer Fraud, Forgery, and Dishonesty coverage: \$100,000 per claim with a \$1,000 deductible.
- Employers Liability: \$2,000,000 per accident employee by disease
- Workers compensation: \$2,000,000 each accident or each employee by disease.

(13) Governmental Accounting Standards Board Statements Issued, Not Yet Effective

The Governmental Accounting Standards Board (GASB) has issued several pronouncements prior to June 30, 2012, that have effective dates that may impact future financial presentations.

Governmental Accounting Standards Board Statement No. 60

In November 2010, the GASB issued Statement No. 60, *Accounting and Financial Reporting for Service Concession Arrangements*. This standard address how to account for and report service concession arrangements, a type of public-private or public-public partnership that state and local governments are increasingly entering into. This statement is effective for financial statements for periods beginning after December 15, 2011. The impact of the implementation of this Statement to the District's financial statements has not been assessed at this time.

Governmental Accounting Standards Board Statement No. 61

In November 2010, the GASB issued Statement No. 61, *The Financial Reporting Entity, Omnibus*. This standard is designed to improve financial reporting for governmental entities by amending the requirements of GASB Statement No. 14, *The Financial Reporting Entity*, and GASB Statement No. 34, *Basic Financial Statement and Management's Discussion and Analysis for State and local Governments*. This statement is effective for financial statements for periods beginning after June 15, 2012. The impact of the implementation of this Statement to the District's financial statements has not been assessed at this time.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(13) Governmental Accounting Standards Board Statements Issued, Not Yet Effective

Governmental Accounting Standards Board Statement No. 62

In December 2010, The GASB issued Statement No. 62 – *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*. The objective of this Statement is to incorporate into the GASB’s authoritative literature certain accounting and financial reporting guidance that is included in the following pronouncements issued on or before November 30, 1989, which does not conflict with or contradict GASB pronouncements:

1. Financial Accounting Standards Board (FASB) Statements and Interpretations
2. Accounting Principles Board Opinions
3. Accounting Research Bulletins of the American Institute of Certified Public Accountants’ (AICPA) Committee on Accounting Procedure.

Hereinafter, these pronouncements collectively are referred to as the “FASB and AICPA pronouncements.” This Statement also supersedes Statement No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*, thereby eliminating the election provided in paragraph 7 of that Statement for enterprise funds and business-type activities to apply post-November 30, 1989 FASB Statements and Interpretations that do not conflict with or contradict GASB pronouncements. However, those entities can continue to apply, as other accounting literature, post-November 30, 1989 FASB pronouncements that do not conflict with or contradict GASB pronouncements, including this Statement. The requirements of this Statement are effective for financial statements for periods beginning after December 15, 2011. The provisions of this Statement generally are required to be applied retroactively for all periods presented.

Governmental Accounting Standards Board Statement No. 63

In June 2011, the GASB issued Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position*. This standard is designed to improve financial reporting by standardizing the presentation of deferred outflows of resources and deferred inflows of resources into the definitions of the required components of the residual measure and by renaming that measure as net position, rather than net assets. This statement is effective for financial statements for periods beginning after December 15, 2012. The impact of the implementation of this Statement to the District’s financial statements has not been assessed at this time.

Governmental Accounting Standards Board Statement No. 64

In June 2011, the GASB issued Statement No. 64, *Derivative Instruments: Application of Hedge Accounting Termination Provisions – an amendment of GASB Statement No. 53*. This standard is designed to improve financial reporting by clarifying the circumstances in which hedge accounting should continue when a swap counterparty, or swap counterparty’s credit support provider, is replaced. This statement is effective for financial statements for periods beginning after December 15, 2011. The impact of the implementation of this Statement to the District’s financial statements has not been assessed at this time.

Governmental Accounting Standards Board Statement No. 65

In March 2012, the GASB issued Statement No. 65 – *Items Previously Reported as Assets and Liabilities*. This Statement establishes accounting and financial reporting standards that reclassify, as deferred outflows of resources or deferred inflows of resources, certain items that were previously reported as assets and liabilities and recognizes, as outflows of resources or inflows of resources, certain items that were previously reported as assets and liabilities. The provisions of this Statement are effective for financial statements for periods beginning after December 15, 2012. The impact of the implementation of this Statement to the District’s financial statements has not been assessed at this time.

San Bernardino Valley Water Conservation District
Notes to the Financial Statements
For the Fiscal Year Ended June 30, 2012 and 2011

(13) Governmental Accounting Standards Board Statements Issued, Not Yet Effective

Governmental Accounting Standards Board Statement No. 66

In March 2012, the GASB issued Statement No. 66 – *Technical Corrections—2012—an amendment of GASB Statements No. 10 and No. 62*. The objective of this Statement is to improve accounting and financial reporting for a governmental financial reporting entity by resolving conflicting guidance that resulted from the issuance of two pronouncements, Statements No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, and No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*. The provisions of this Statement are effective for financial statements for periods beginning after December 15, 2012. The impact of the implementation of this Statement to the District's financial statements has not been assessed at this time.

Governmental Accounting Standards Board Statement No. 68

In June 2012, the GASB issued Statement No. 68 – *Accounting and Financial Reporting for Pensions—an amendment of GASB Statement No. 27*. The primary objective of this Statement is to improve accounting and financial reporting by state and local governments for pensions. It also improves information provided by state and local governmental employers about financial support for pensions that is provided by other entities. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for pensions with regard to providing decision-useful information, supporting assessments of accountability and inter-period equity, and creating additional transparency.

This Statement replaces the requirements of Statement No. 27, *Accounting for Pensions by State and Local Governmental Employers*, as well as the requirements of Statement No. 50, *Pension Disclosures*, as they relate to pensions that are provided through pension plans administered as trusts or equivalent arrangements (hereafter jointly referred to as trusts) that meet certain criteria. The requirements of Statements 27 and 50 remain applicable for pensions that are not covered by the scope of this Statement. The provisions of Statement 68 are effective for fiscal years beginning after June 15, 2014. The impact of the implementation of this Statement to the District's financial statements has not been assessed at this time.

(13) Commitments and Contingencies

Litigation

In the ordinary course of operations, the District is subject to claims and litigation from outside parties. After consultation with legal counsel, the District believes the ultimate outcome of such matters, if any, will not materially affect its financial condition.

(14) Subsequent Events

Events occurring after June 30, 2012 have been evaluated for possible adjustment to the financial statements or disclosure as of September 28, 2012, which is the date the financial statements were available to be issued.

Required Supplementary Information

DRAFT

San Bernardino Valley Water Conservation District
Schedule of Funding Status – Other Post-Employment Benefits Obligation
For the Fiscal Year Ended June 30, 2012

Funded Status and Funding Progress of the Plan

Required Supplemental Information – Schedule of Funding Progress

| Actuarial Valuation Date | Actuarial Value of Assets (a) | Actuarial Accrued Liability (b) | Unfunded Actuarial Accrued Liability (UAAL) (b-a) | Funded Ratio (a/b) | Covered Payroll (c) | UAAL as a Percentage of Covered Payroll ((b-a)/c) |
|---|--|--|--|-----------------------------------|------------------------------------|--|
| 11/1/2011 | - | 3,118 | 3,118 | 0.00% | 429,422 | 0.73% |

* The information for the two preceding years is unavailable.

GASB No. 45 was implemented in fiscal year 2011.

The most recent valuation (dated November 1, 2011) includes an Actuarial Accrued Liability and Unfunded Actuarial Accrued Liability of \$3,118. There are no plan assets because the District funds on a pay-as-you-go basis. The covered payroll (annual payroll of active employees covered by the plan) for the year ended June 30, 2011 was \$429,422. The ratio of the unfunded actuarial accrued liability to annual covered payroll is 0.73%.

Actuarial Methods and Assumptions

Actuarial valuations involve estimates of the value of reported amounts and assumptions about the probability of events far into the future. Actuarially determined amounts are subject to continual revision as actual results are compared to past expectations and new estimates are made about the future.

Calculations are based on the types of benefits provided under the terms of the substantive plan at the time of each valuation and the pattern of sharing of costs between the employer and plan members to that point. Consistent with the long-term perspective of actuarial calculations, actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities for benefits.

The following is a summary of the actuarial assumptions and methods:

| | |
|-------------------------------|--|
| Valuation date | November 1, 2011 |
| Actuarial cost method | Entry age normal actuarial cost method |
| Amortization method | Level percent of payroll amortization |
| Remaining amortization period | 30 Years as of the valuation date |
| Asset valuation method | 30 Year smoothed market |
| Actuarial assumptions: | |
| Investment rate of return | 4.00% |
| Projected salary increase | 3.00% |
| Inflation - discount rate | 4.00% |
| Individual salary growth | 3.00% |

Supplemental Information

DRAFT

San Bernardino Valley Water Conservation District
Schedules of Operating Revenues and Expenses
For the Fiscal Year Ended June 30, 2012 and 2011

| | <u>2012</u> | <u>2011</u> |
|--|----------------------------|-------------------------|
| Operating revenues: | | |
| Groundwater assessments: | | |
| Groundwater charge assessment – Agricultural | \$ 81,436 | 65,686 |
| Groundwater charge assessment – Non-Agricultural | 589,756 | 535,780 |
| Water spreading operations | 157,298 | - |
| Services for other agencies | 30,000 | 30,000 |
| Total operating revenues | <u>858,490</u> | <u>631,466</u> |
| Operating expenses: | | |
| Water spreading operations: | | |
| Professional services | 167,750 | 281,386 |
| Field Operations | 30,899 | 31,476 |
| Vehicle operations | 3,512 | 1,374 |
| Utilities | 26,601 | 24,088 |
| Benefits | 175,040 | 174,796 |
| Salaries/staff | 405,891 | 363,997 |
| Equipment | 80,128 | 23,873 |
| Total water spreading operations | <u>889,821</u> | <u>900,990</u> |
| Regional programs: | | |
| Regional programs LAFCO contribution | 1,028 | 2,194 |
| Total regional programs | <u>1,028</u> | <u>2,194</u> |
| General and administrative: | | |
| Administrative expense | 2,972 | 6,693 |
| Director's fees/expense | 123,721 | 92,231 |
| General and administrative | 58,632 | 46,393 |
| Insurance | 8,386 | 22,590 |
| Total general and administrative | <u>193,711</u> | <u>167,907</u> |
| Total operating expenses | <u>1,084,560</u> | <u>1,071,091</u> |
| Operating loss before depreciation expense | (226,070) | (439,625) |
| Depreciation expense | (105,948) | (99,224) |
| Operating loss | <u><u>\$ (332,018)</u></u> | <u><u>(538,849)</u></u> |

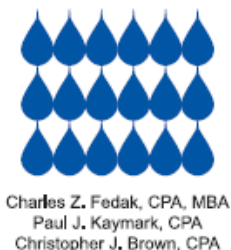
San Bernardino Valley Water Conservation District
Schedules of Wash Plan Revenues and Expenses
For the Fiscal Years Ended June 30, 2012 and 2011

| | <u>2012</u> | <u>2011</u> |
|------------------------|------------------|---------------|
| Revenues: | | |
| Wash Plan – EIS | \$ - | 33,693 |
| Interest income | - | 3 |
| | <u>-</u> | <u>33,696</u> |
| Expenses: | | |
| Professional services | 40,298 | 34,720 |
| Environmental services | 6,294 | 9,898 |
| Legal expenses | 4,550 | 23,147 |
| Other | - | 994 |
| | <u>\$ 51,142</u> | <u>68,875</u> |

DRAFT

Report on Internal Controls and Compliance

DRAFT



Charles Z. Fedak & Company

Certified Public Accountants
An Accountancy Corporation

6081 Orange Avenue
Cypress, California 90630
(714) 527-1818
(562) 598-6565
FAX (714) 527-9154
EMAIL czfco@czfcpa.com
WEB www.czfcpa.com

Independent Auditor's Report on Internal Controls Over Financial Reporting And on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

Board of Directors
San Bernardino Valley Water Conservation District
Redlands, California

We have audited the basic financial statements of the San Bernardino Valley Water Conservation District (District) as of and for the years ended June 30, 2012 and 2011 and have issued our report thereon dated September 28, 2012. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audits, we considered the District's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the District's internal control over financial reporting.

A deficiency in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the District's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the Board of Directors and management and is not intended to be and should not be used by anyone other than these specified parties.

Charles Z. Fedak & Company, CPA's - An Accountancy Corporation
Cypress, California
September 28, 2012

San Bernardino Valley Water Conservation District

Management Report

June 30, 2012



Charles Z. Fedak & Company

Certified Public Accountants
An Accountancy Corporation

San Bernardino Valley Water Conservation District

Management Report

Table of Contents

| <u>Item</u> | <u>Page No.</u> |
|---|-----------------|
| General Introduction | 1 |
| Summary of Current Year Comments and Recommendations | 2 |
| Status of Comments and Recommendations Made in the Previous Year | 2-3 |
| Appendix: | |
| Audit/Finance Committee Letter | 1-3 |

DRAFT



Charles Z. Fedak, CPA, MBA
Paul J. Kaymark, CPA
Christopher J. Brown, CPA

Charles Z. Fedak & Company

Certified Public Accountants
An Accountancy Corporation

6081 Orange Avenue
Cypress, California 90630
(714) 527-1818
(562) 598-6565
FAX (714) 527-9154
EMAIL czfco@czfcpa.com
WEB www.czfcpa.com

Board of Directors
San Bernardino Valley Water Conservation District
Redlands, California

Dear Members of the Board:

In planning and performing our audit of the financial statements of San Bernardino Valley Water Conservation District (District) as of and for the year ended June 30, 2012, in accordance with auditing standards generally accepted in the United States of America, we considered the District's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of District's internal control. Accordingly, we do not express an opinion on the effectiveness of District's internal control.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis.

A significant deficiency is a control deficiency, or combination of control deficiencies that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected.

Our consideration on internal control was for the limited period described in the first paragraph and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses.

Summary of Current Year Comments and Recommendations

None noted

Status of Comments and Recommendations Made in the Previous Year

Audit Preparation

While conducting our audit, we noted that obtaining a complete and accurate final general ledger as well as supporting schedules for account balances that were acceptable to the auditor took an extensive amount of time. These factors contributed to significant delays in the ability to begin our audit and finalize the year-end financial statements. We recommend that the District examine current accounting and financial reporting needs and requirements and improve and/or acquire skills concerning the preparation of supporting schedules for balances recorded in the general ledger. This training will lead to personnel who are more efficient, effective, and communicative with the auditors in regard to accounting and financial matters.

Management's Response

The District has made significant changes in the year under audit. Changes in staffing at both, management, accounting staff, and external auditor made the audit more difficult for staff and auditors. The District also moved to an enterprise approach for accounting and significantly improved the tracking of costs and expenses. This transition created some of the difficulty the auditor encountered. While the District believes it has made excellent progress in financial reporting, the District is undertaking efforts to make staffing changes to insure it can produce schedules incorporated into the general ledger for audit purposes.

Current Year Assessment

During fiscal year 2012, the District engaged the services of an outside accounting firm to assist with various accounting functions and provide support for the preparation of the District's financial statements for the fiscal year ended June 30, 2012. We believe this action serves to mitigate our comment with regard to audit preparation made in the prior year.

Internal Control over Financial Reporting and Auditor Independence

While conducting our audit, we noted a reliance on the District's auditor to identify and resolve accounting issues that should be part of the District's year-end accounting function. Auditing standards require that the external auditor be both independent in both perception and in fact. Since the performance of these non-attest services could impair the auditor's independence, we believe that the District should consider options to strengthen controls over the District's accounting department and financial reporting process.

Management's Response

See response to item No. 1. Services previously provided or coordinated by the auditor were historically relied upon to close the District's books for the year. Changes in auditors and staffing will necessitate developing capacity to perform year end accounting functions. The District is committed to develop these capacities in staff or contract support to avoid any change of impairing auditor independence.

Current Year Assessment

During fiscal year 2012, the District engaged the services of an outside accounting firm to assist with various accounting functions and provide support for the preparation of the District's financial statements for the fiscal year ended June 30, 2012. We believe this action serves to mitigate our comments with regard to internal control over financial reporting and auditor independence made in the prior year.

Disclosure of Audit Adjustments and Reclassifications

As your external auditor, we assume that the books and records of the District are properly adjusted before the start of the audit. In many cases, however, audit adjustments and reclassifications are made in the normal course of the audit process to present the District's financial statements in conformity with accounting principles generally accepted in the United States of America or for comparison purposes with the prior year. For the Board of Directors to gain a full and complete understanding and appreciation of the scope and extent of the audit process we have noted here that there are no audit adjustments this year; however, certain reclassification adjustments were needed for financial reporting purposes. There can be very reasonable explanations for situations of having numerous adjustments as well as having no adjustments at all. However, the issue is simply disclosure of the adjustments and reclassifications that were made and to provide the Board of Directors with a better understanding of the scope of the audit.

Management's Response

We have reviewed and approved all of the audit adjustment and reclassification entries provided by the auditor and have entered those entries into the District's accounting system to close-out the District's year-end trial balance.

Current Year Assessment

During our audit of the District's financial statements at June 30, 2012, we noted no adjusting journal entries.

* * * * *

This report is intended solely for the information and use of management and the Board of Directors of the District. This restriction is not intended to limit the distribution of this letter, which is a matter of public record.

We appreciate the courtesy and cooperation extended to us during our examination. We would be pleased to discuss the contents of this letter with you at your convenience. Please do not hesitate to contact us.

Charles Z. Fedak & Company, CPA's – An Accountancy Corporation
Cypress, California
September 28, 2012

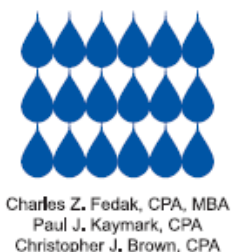
APPENDIX

San Bernardino Valley Water Conservation District

Audit/Finance Committee Letter

June 30, 2012

DRAFT



Charles Z. Fedak & Company

Certified Public Accountants
An Accountancy Corporation

6081 Orange Avenue
Cypress, California 90630
(714) 527-1818
(562) 598-6565
FAX (714) 527-9154
EMAIL czfco@czfcpa.com
WEB www.czfcpa.com

Board of Directors
San Bernardino Valley Water Conservation District
Redlands, California

We have audited the basic financial statements of the San Bernardino Valley Water Conservation District (District) for the year ended June 30, 2012 and have issued our report thereon dated September 28, 2012. Generally accepted auditing standards require that we provide the Governing Board and management with the following information related to our audit of the District's basic financial statements.

Auditor's Responsibility under United States Generally Accepted Auditing Standards

As stated in our Audit Engagement Letter dated April 27, 2012, our responsibility, as described by professional standards, is to express an opinion about whether the basic financial statements prepared by management with oversight of the Governing Board are fairly presented, in all material respects, in conformity with United States generally accepted accounting principles. Our audit of the financial statements does not relieve the Governing Board or management of its responsibilities of oversight in the District's external financial reporting process or any other processes.

In planning and performing our audit, we considered the District's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the basic financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the District's internal control over financial reporting.

As part of obtaining reasonable assurance about whether the District's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Governmental Auditing Standards*.

We are responsible for communicating significant matters related to the audit that are, in our professional judgment, relevant to your responsibilities in overseeing the financial reporting process. However, we are not required to design procedures specifically to identify such matters.

Planned Scope and Timing of the Audit

We performed the audit according to the planned scope and timing requirements previously communicated to management during our interim fieldwork.

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the District are described in Note 1 to the basic financial statements.

We noted no transactions entered into by the District during fiscal year 2012 for which there is a lack of authoritative guidance or consensus. There are no significant transactions that have been recognized in the financial statements in a different period than when the transaction occurred.

Management's Judgments, Accounting Estimates and Financial Disclosures

Accounting estimates play an integral part in the preparation of basic financial statements by management and are based upon management's knowledge, experience and current judgment(s) about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the basic financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate(s) affecting the position in the basic financial statements is (are):

Management's estimate of the fair value of cash and investments is based on information provided by financial institutions. We evaluated the key factors and assumptions used to develop the fair value of cash and investments in determining that it is reasonable in relation to the financial statements taken as a whole.

Management's estimate of capital assets depreciation is based on historical estimates of each capitalized item's useful life expectancy or cost recovery period. We evaluated the key factors and assumptions used to develop the capital asset depreciation calculations in determining that they are reasonable in relation to the financial statements taken as a whole.

Management's estimate of the other post-employment benefits payable is based on an actuarial evaluation of this liability that was prepared via a third-party actuarial software package. We evaluated the basis, actuarial methods and assumptions used by the actuary to calculate the annual required contribution for the District to determine that it is reasonable in relation to the financial statements taken as a whole.

The disclosures in the basic financial statements are neutral, consistent and clear. Certain basic financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosure(s) affecting the basic financial statements is (are):

The disclosure of fair value of cash and investments in Note 2 to the basic financial statements represents amounts susceptible to market fluctuations.

The disclosure of capital assets, net in Note 4 to the basic financial statements is based on historical information which could differ from actual useful lives of each capitalized item.

The disclosure of the District's other post-employment benefits payable in Note 9 to the basic financial statements is based on actuarial assumptions which could differ from actual costs.

Corrected and Uncorrected Misstatements

Generally Accepted Auditing Standards require us to accumulate all known and likely misstatements identified during the audit, except those that are considered trivial, and communicate them to the appropriate level of management as follows:

There were no audit adjustments and/or reclassification entries made to the original trial balance presented to us to begin our audit.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a “second opinion” on certain situations. If a consultation involves the application of an accounting principal to the District’s basic financial statements or a determination of the type of auditor’s opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the District’s auditor. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit processes and testwork.

Disagreements with Management

For the purpose of this letter, professional standards define a disagreement with management as a financial accounting, reporting or auditing matter, whether or not resolved to our satisfaction that could be significant to the basic financial statements or the auditor’s report. We are pleased to report that no such disagreements arose during the course of our audit of the District.

Management Representations

We have requested certain representations from management that are included in the Management Representational Letter to the Auditor dated September 28, 2012

Conclusion

We appreciate the cooperation extended us by Daniel Cozad, General Manager, in the performance of our audit testwork.

We will be pleased to respond to any question you have about the foregoing. We appreciate the opportunity to continue to be of service to the District.

This report is intended solely for the information and use of the Board of Directors and management and is not intended to be and should not be used by anyone other than the specified, parties. This restriction is not intended to limit the distribution of this letter, which is a matter of public record.

Charles Z. Fedak & Company, CPA’s – An Accountancy Corporation
Cypress, California
September 28, 2012



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
www.sbvwd.dst.ca.us

Memorandum No. 1132

To: Board of Directors

From: General Manager, Daniel Cozad

Date: October 31, 2012

Subject: Approval of Final Collaborative Agreement with San Bernardino Valley Municipal Water District (SBVMWD) and Western Municipal Water District (WMWD)

RECOMMENDATION

Staff recommends the Board approve the final agreement with SBVMWD and WMWD and authorize Board President to execute the agreement.

BACKGROUND

The Board approved participation in the Collaborative Process to develop a new agreement with SBVMWD and WMWD in October 2010 and the principals were approved in December 2011. Since that time legal counsel and general managers of the agencies have worked to detail the final draft agreement. The latest version of the document will be provided to the Board under separate cover for review and discussion at the meeting. At the August 29, 2012, and October 10, 2012 Board meetings the Board approved revisions to the agreement and direction to staff on negotiating. The current version implements the changes in the term of the agreement to 25 years with five, 5 year extensions at mutual agreement

STATUS

SBVMWD Board approved the agreement at its September 18th and October 16th meetings and WMWD approved the agreement at its October 3rd and October 17th board meetings. Direction was provided to staff as to the term of the agreement and the current version is in accordance with the direction of the Board. Staff billed SBVMWD for all prior year Easement Agreement charges and payment is scheduled before the end of the month.

FISCAL IMPACT

The cost to develop the agreement is included in the approved budget. The overall impact of the agreement is to provide \$350,000 in annual funding which was incorporated into the budget for 2012-13. The year over year impact will be to increase revenue to the District over the term of the agreement offset in part by increasing groundwater enterprise costs for services and elimination of some reimbursements under prior agreements.

BOARD
OF
DIRECTORS

Richard W. Corneille
Clare Henry Day

Bob Glaubig
John Longville

David E. Raley
Melody McDonald
Manuel Aranda, Jr.

GENERAL
MANAGER

Daniel B. Cozad

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT
1630 West Redlands Boulevard, Suite A
Redlands, CA 92373-8032
Attention: General Manager

SPACE ABOVE THIS LINE FOR RECORDER'S
USE

EXEMPT GOVERNMENT AGENCY Per Government Code Sec. 6103

By _____
District Secretary, San Bernardino Valley Water Conservation District

AGREEMENT TO DEVELOP AND OPERATE ENHANCED RECHARGE FACILITIES

This Agreement to Develop and Operate Enhanced Recharge Facilities ("**Agreement**") is entered into and effective this 1st day of October, 2012 by and among the San Bernardino Valley Water Conservation District (the "**Conservation District**"), the San Bernardino Valley Municipal Water District ("**Valley District**") and Western Municipal Water District of Riverside County ("**Western**"). The Conservation District, Valley District and Western are each sometimes referred to as a "**Party**" and are collectively sometimes referred to as the "**Parties**."

Recitals

A. General Purposes.

(1) The Parties each hold water rights to the waters of the Santa Ana River and each own and operate facilities that serve to divert and/or store the waters of the Santa Ana River. Furthermore, each Party possesses critical assets and unique skills that the other Parties do not possess.

28 (2) The Parties wish to collaboratively use all of their respective assets and
29 skills, including but not limited to water rights and facilities necessary or useful for the diversion
30 and storage of water, to improve the reliability of local water supplies for their respective
31 constituents by establishing a collaborative partnership to coordinate the use of their separate
32 resources for mutual advantage.
33

34 (3) The Parties specifically wish to collaborate by increasing opportunities to
35 recharge local surface water supplies, as well as State Project Water, in the San Bernardino Basin
36 Area (the "SBBA"); by reducing the time and cost required to permit and construct essential
37 public infrastructure (such as spreading basins); and by working together to achieve an efficient
38 division of labor in the operation and maintenance of water infrastructure.
39

40 (4.) The Parties acknowledge that their water resource management activities
41 in the Santa Ana River wash area proceed in concert with other uses of the lands in that area,
42 including the mining of sand and gravel mineral deposits pursuant to existing leases, and habitat
43 conservation and management, pursuant to a series of multi-agency cooperative initiatives
44 involving local, state, and federal resource management and control agencies. The Parties' goal
45 is to harmonize their water resource activities with these other uses, for the optimization of
46 coordinated use by all.
47

48 (5) The Parties wish to memorialize their joint understandings by means of
49 this Agreement.
50

51 B. Findings. 52

53 (1) The Parties agree that they must increase groundwater storage in the
54 SBBA in order to meet current and future demands for water among their constituents.
55

56 (2) In the past, reasonable disagreements among the Parties have added
57 unintentional and undesirable costs and complexity to the planning and permitting of important
58 water resources projects in the region.
59

60 (3) The Parties believe that it is in their best interests, and the best interest of
61 the public they serve, to cooperate in increasing the available water supply by establishing a new
62 and more productive working relationship.
63

64 (4) In certain years, wet weather conditions and increased availability of State
65 Project Water can create a limited opportunity to improve the reliability of local water supplies
66 by increasing recharge and storage to groundwater. These favorable conditions are temporary
67 and perishable. Therefore, time is of the essence. New inter-agency operating agreements
68 should be established immediately in order to make the most of this and future opportunities
69 because they occur on an irregular and unpredictable basis.
70

(5) Because of the limited and sporadic opportunities to augment local water supplies, the Parties intend for this Agreement to continue for a long period, thereby allowing the utilization of such limited water supplies.

Agreements

1. *Term.* The term of this Agreement shall commence on the Effective Date first written above and shall continue for a term of twenty five (25) years ("Initial Term") , unless terminated earlier as provided in this Agreement. This Agreement may be extended by written agreement among all parties for up to five additional, consecutive five year terms ("Extension Terms"), on the same terms and conditions stated herein, provided that prior to the expiration of the term then in effect, all parties agree in writing to the applicable extension, by action of their legislative bodies, to extend the Agreement for another term.

2. *Duties of the Conservation District.*

a. *Lease of Facilities for the Purpose of Groundwater Recharge to Valley District and Western.* The Conservation District hereby leases to Valley District and Western, for the term of this Agreement and on the terms specified herein, the surface of the lands shown on Exhibit 1 during the term of this Agreement ("**Leased Property**"). Exhibit 1A provides the legal description for the lands owned in fee by the Conservation District and Exhibit 1B provides the legal description of lands made available under existing easements under ownership by the Bureau of Land Management. Exhibit 1 is attached hereto and incorporated herein by reference. Valley District and Western shall have the right to enter upon and use the Leased Property, and any reasonably necessary subsurface areas incident thereto. Such entry and use shall be only for the purpose of recharging, storing or conveying water from any source (collectively "**recharging of water**" herein) into or through the percolation basins and other facilities owned or controlled by the Conservation District, whether existing as of the effective date of this Agreement, or as may be constructed pursuant to the terms of this Agreement, as such existing and contemplated future facilities are depicted in Exhibit 2, which is attached hereto and incorporated herein by reference). The Conservation District reserves all rights in and to the Leased Property not expressly conveyed as a part of this lease. Specific terms of this lease are as follows:

(1) Valley District and Western may construct, operate, maintain, repair, reconstruct and rehabilitate diversion facilities, recharge basins, pumps and other ancillary facilities or equipment located within the Leased Property as Valley District and Western may reasonably deem necessary for the recharging of water on the Leased Property,

111 recognizing that the Parties intend that the Conservation District shall
112 be responsible for the operation and maintenance of such facilities.

113 (2) Included within this lease are all rights of reasonable ingress and egress
114 as may be useful or necessary, in Valley District and/or Western's sole
115 discretion, for the purpose of the recharging of water on the Leased
116 Property, provided that such activities shall not interfere with: (i) any
117 conservation easements that may now exist, or may be established
118 consistent with the Conservation District's Upper Santa Ana River
119 Wash Land Management and Habitat Conservation Plan, on said lands,
120 or (ii) other easements existing as of the effective date of this
121 Agreement.

122 (3) The designs for any such facilities or other tenant improvements must
123 be approved, in advance by the Conservation District, which approval
124 shall not be unreasonably withheld or delayed, and are subject to any
125 limitations on the Conservation's District's holding of the Leased
126 Property. The Conservation District shall cooperate reasonably with
127 Valley District and Western to obtain local, state, or federal permits that
128 may be required to construct or operate such facilities approved by the
129 Conservation District.

130 (4) The Conservation District will utilize its best efforts under all existing
131 and future lease agreements and easements with other individuals,
132 organizations or entities operating on the Leased Property to harmonize
133 the objective of Valley District and Western making full use of the
134 facilities on the Leased Property for the recharge of water, consistent
135 with the hydrological design limitations of these facilities, with any
136 competing uses of the properties on which such facilities are or may be
137 located.

138 (5) The Parties recognize that the Conservation District has negotiated lease
139 agreements with mining companies that allow the Conservation District
140 to engage in recharge of water that may periodically interfere with or
141 prevent mining, without liability on the part of the Conservation
142 District, which agreements are attached hereto as Exhibits 3 and 4. The
143 Conservation District represents and warrants that these are the only
144 current agreements that authorize mining on the Leased Property, and
145 represents and warrants that the copies of these agreements attached as
146 Exhibits 3 and 4 are true and correct copies of those agreements. Based
147 on those representations, the Parties believe that they can
148 collaboratively manage the recharge of water to avoid liability arising
149 from any incompatibility between the recharging of water and any

150 activities otherwise authorized under the mining leases. Toward this
151 end, the Parties agree as follows:

152 (a) During the winter season (from October 1 to March 31), the Parties
153 will consult with each other on a regular basis to determine the
154 quantity of water that may be recharged without interfering with
155 mining operations.

156 (b) In the event that the recharging of water threatens to substantially
157 limit or interfere with mining operations, the Parties shall
158 immediately confer to determine how to maximize the recharge
159 without unduly interfering with mining activity. Towards this end,
160 the parties acknowledge that the Conservation District has the
161 right, from time to time and as it deems necessary in the exercise
162 of its reasonable discretion, to utilize all or any portion of the areas
163 subject to the mining leases for its water recharge, conservation,
164 spreading, and other operations, provided such activities are
165 undertaken utilizing best efforts to avoid storing water so as to
166 require temporary use of the mining lease areas. In connection
167 with the exercise of their activities on the Leased Property
168 hereunder, Valley District and Western shall assist the
169 Conservation District to make every effort to minimize the time of
170 any interruption of the mining lessees' activities on the Leased
171 Property, to permit sufficient time for the Conservation District to
172 observe all requirements for notice to mining lessees required
173 under the applicable leases in the event of conflicts, and to
174 harmonize their recharge of water with the then-current and
175 anticipated immediate future excavation and other activities of the
176 mining lessees, with the overall goal that the mining activity and
177 the water conservation activity can harmoniously exist, without
178 interruption to either.

179 (c) Any decisions about the proper scope, location, or amount of
180 recharging of water after such consultation with appropriate
181 agencies shall be made solely by the Conservation District in the
182 exercise of its reasonable discretion, consistent with paragraph 4(d)
183 (2) below, and consistent with the principle of ensuring that the
184 optimum quantity of water possible is replenished within the San
185 Bernardino Basin Area.

186 In the event the Conservation District determines, in the exercise
187 of its reasonable discretion, that portions of the Leased Property
188 cannot be made available to Valley District and Western, and such
189 determination is made at a time when water supplies are otherwise

190 immediately available to Valley District and Western for recharge
191 into facilities on the leased land:, Conservation District will not
192 object, directly or indirectly, to efforts by Valley District and/or
193 Western to deliver water supplies that cannot be spread on the
194 Leased Property to other locations, *provided that* in determining
195 where to deliver such water supplies, Valley District and Western
196 act consistent with the priority of first delivering water for direct
197 delivery or spreading within the SBBA, then delivering water for
198 direct delivery or spreading within the boundaries of Valley
199 District, then delivering water for direct delivery, spreading or
200 storage within Western, and then delivering water for direct
201 delivery, spreading or storage outside of Western.

202 In such event, the parties shall meet and confer in good faith, under
203 the auspices of the Joint Operations Committee provided for in
204 paragraph 4(b) below, regarding whether some proportional refund
205 to Valley District, Western, or both of a portion the gross lease fee
206 paid for the given year in which the Leased Premises were
207 unavailable for the recharge of water may be appropriate, and if so,
208 in what amount.

209 b. *Operation and Maintenance of Spreading Basins.* The Conservation District shall
210 operate and maintain all new and existing facilities, located on the areas depicted
211 in Exhibit 2 hereto, in good working condition, to ensure that the recharge of
212 water continues efficiently, in accordance with a mutually-agreed schedule of
213 regular maintenance and any supplemental agreements governing special or
214 emergency maintenance responsibilities. The Conservation District shall set aside
215 a portion of the gross lease fee provided for in Paragraph 3(a) below received
216 from Valley and Western, in accordance with the Conservation District's Reserve
217 Policy, to ensure sufficient funds are available to meet the agreed maintenance
218 obligations.

219 c. *Ownership of New Facilities* Upon expiration or other proper termination of this
220 Agreement, however, improvements made on land owned or controlled by the
221 Conservation District shall become Conservation District property, to be used by
222 the Conservation District for water management and the recharge of water.

223 d. *Groundwater Charge.* All parties producing water in the Conservation District's
224 jurisdictional boundaries shall be subject to all then-applicable groundwater
225 charges, and this Agreement shall not exempt nor excuse any party, including
226 Valley District and Western, from the levy or payment thereof. Notwithstanding,
227 the parties recognize that they do not intend that groundwater charges would be
228 required to be paid on production of water pursuant to measures taken for the
229 emergency alleviation of high groundwater conditions, or the implementation of

other basin management objectives as may be approved by the Basin Technical Advisory Commission (“BTAC”) or other similar organization including all of the parties hereto that may perform a substantially similar role under any Conjunctive Use Plan that may be implemented for the SBBA. The Conservation District agrees to consider implementing reasonable measures to reduce or eliminate groundwater charges for groundwater production devoted to such agreed purposes, whether by exemption, or refund of charges otherwise paid, as may be consistent with applicable law.

3. *Duties of Valley District and Western.*

a. *Gross Lease Fee.* Valley District and Western shall together pay to the Conservation District a gross lease fee of \$350,000/year for the right to the recharge of water through the existing percolation basins and other facilities owned by the Conservation District, and the right to construct and have operated additional recharge and conveyance facilities on the Leased Property. The parties acknowledge and affirm that the gross lease fee is a lease payment for access to and use of the Leased Property, only, and for partial offset to the costs of operation and maintenance of facilities thereon same by the Conservation District. The gross lease fee does not include, and is not intended to replace or offset, any charges for the acquisition, conveyance, storage, or production of water, that may otherwise apply by or among the parties, or third parties, whether now or in the future.

b. Valley District and Western, or either of them, shall pay the gross lease fee, in advance, by October 1st of each year, which sum may be apportioned by the Conservation District to its Groundwater Enterprise and other funds.

(1) Valley District and Western shall annually adjust the gross lease fee to account for inflation using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI-U) for the Los Angeles District. The base year for such payments will be 2012.

(2) In the event that Valley District and/or Western construct new percolation basins or other facilities useful or necessary for the recharge of water, the Parties shall adjust the gross lease fee proportionally to reflect the additional operation and maintenance costs that will be incurred by the Conservation District in operating and maintaining those new facilities, as may be agreeable to the Parties.

c. *Permitting for New or Augmented Spreading Basins.* Valley District and Western shall be responsible for obtaining all federal, state and local permits (including conducting environmental review under the California Environmental Quality Act or the National Environmental Policy Act) that may be required to construct

additional facilities for the recharge of water supplied by Valley and Western. If, after 10 years, Valley and Western have been unable to obtain the necessary permits, either or both may terminate this lease agreement subject to the provisions of paragraph 9.c. below. Valley District and Western shall bear all costs associated with protecting, repairing or replacing the material infrastructure improvements (including pipelines, gates, valves, weirs, fencing, gauges, etc.) installed by Valley District and Western on lands owed by the Conservation District.

d. *Resource Management.*

- (1) Valley District and Western shall coordinate their operations to harmonize with mineral resource extractions, to avoid any potential liability under mineral leases, or other uses authorized by the Conservation District on the Leased Property.
- (2) Valley District and Western shall negotiate supplemental payments to the Conservation District where unusual and unforeseen circumstances necessitate extraordinary maintenance expenses that are in excess of the budget prepared and approved by the Joint Operations Committee.
- (3) Valley District and Western shall cooperate with the Conservation District in developing a long-term resource management plan to govern multiple-use activities in Reach 5 of the Santa Ana River wash (i.e., the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan).

4. *Duties of All Parties*

- a. *No Rights to Other Party(ies)' Water or Facilities.* Except as provided for in paragraph 2(c) above, the Conservation District will not assert any claim to own or control the new facilities constructed, or the additional water recharged by, Valley District and Western under the terms of this Agreement, provided that these activities occur in conformance with this Agreement. Valley District and Western will not assert any claim to own or control any water that is percolated in the new or existing recharge basins that is not supplied by Valley District or Western, nor make any attempt to acquire or control land or facilities owned by the Conservation District.. Valley District and Western acknowledge and represent to Conservation District that this Agreement provides for and constitutes "compatible use" of the Conservation District's property and facilities, as that term is utilized in California Code of Civil Procedure sections 1240.510 et seq., thereby eliminating any need for any exercise of eminent domain by any party to acquire any additional interest in the Leased Property from any other party.

- b. *Establishment of Joint Operations Committee.* The Parties shall establish and participate in a Joint Operations Committee (the "**JOC**") to serve in an advisory capacity to the Conservation District, which shall assist the Conservation District to develop a schedule and budget for planned operation and maintenance activities relating to the recharge of water on the Leased Property, and perform other functions as otherwise specified herein, under such rules and procedures as it shall formulate and unanimously approve. The JOC shall meet at least twice a year to plan water recharge, review financial and water accounting matters implicated hereunder, and review performance.
- c. *Joint Reporting.* The Parties shall jointly provide planning documents, monitoring reports, and other records that may be requested by authorized agencies to demonstrate compliance with federal, state or local laws and regulations. Specifically, the Parties shall continue to cooperate in the preparation and submission of annual reports to the California State Water Resources Control Board, which reports will follow the format used by the Parties in reporting the use of water for calendar year 2010. A copy of the report filed with the California State Water Resources Control Board is attached hereto as Exhibit 5 and incorporated herein by reference.
- d. *Water Resources Management.*
- (1) The Parties will continue to coordinate all recharge of water with one another to protect and enhance the safe yield in the SBBA. Specifically, the Parties will: (i) jointly develop the Regional Conjunctive Use Plan (or its equivalent) through the Basin Technical Advisory Committee, (ii) seek additional opportunities to increase safe yield in the SBBA by engaging in cooperative joint development of new water supply projects or conservation programs in the region, and (iii) cooperate with one another to document the water resource management benefits accrued by establishing and implementing this Agreement.
 - (2) The parties agree to dedicate and use the water made available pursuant to their respective water rights in and to the Santa Ana River to give priority to preserving the safe yield of the SBBA, as part of the reasonable and prudent management of their entire portfolio of water resources. All parties shall refrain from contesting any water rights claimed or held by one another at any time during the term of this Agreement, so long as such water rights are exercised in the manner consistent with this Agreement.
 - (3) The Parties will not export native water from the SBBA, or recharge water on behalf of agencies located outside the SBBA, except as

provided for by the 1969 *Western* Judgment and/or by the Regional
Conjunctive Use Plan (or its equivalent).

5. *Amendments.* The Parties will negotiate amendments, including but not limited to areal
expansion of the scope of activities, to this Agreement in good faith and not unreasonably
withhold consent.

6. *Liberal Construction.* The Parties shall construe all terms and conditions in this
Agreement in a manner which most favors increasing available water supplies by
encouraging greater recharge of water in the area.

7. *Indemnification*

a. *Generally.* Each Party shall indemnify, defend and hold harmless the other
Parties, their directors, officers, employees and agents from and against all
damages, liabilities, claims, actions, demands, costs and expenses (including, but
not limited to, costs of investigations, lawsuits and any other proceedings whether
in law or in equity, settlement costs, attorneys' fees and costs), and penalties or
violations of any kind, which arise out of, result from, or are related to a Party's
performance of its obligations under this Agreement. In extending such
indemnification, however, no party hereto waives any sovereign or governmental
immunities, privileges, or rights that they may have or enjoy under any applicable
law, including but not limited to California Government Code sections 810 et
seq., and except as otherwise specifically provided for hereunder, and each party
reserves all such immunities, privileges and rights, and any claims or other
procedures applicable to same, that may presently exist or hereafter be created, to
themselves, as against each of the other parties, and as against any third party.

b. *Indemnification Procedures.* Any Party that is an indemnified party (the
"**Indemnified Party**") that has a claim for indemnification against the other Party
(the "**Indemnifying Party**") under this Agreement, shall promptly notify the
Indemnifying Party in writing, specifying the nature of the claim, the grounds
upon which the Indemnified Party believes the Indemnifying Party is liable in
whole or in part for the liability or other obligation asserted under the claim, and
including any appropriate demand for defense or indemnification, or both. No
delay on the part of the Indemnified Party in notifying the Indemnifying Party
shall relieve the Indemnifying Party from any obligation unless (and then solely to
the extent) the Indemnifying Party is prejudiced. Further, the Indemnified Party
shall promptly notify the Indemnifying Party of the existence of any claim,
demand, or other matter to which the indemnification obligations apply, and shall
give the Indemnifying Party a reasonable opportunity to defend the same at its
own expense and with counsel of its own selection, *provided* that the Indemnified
Party shall at all times also have the right to fully participate in the disputed
matter at its own expense. If the Indemnifying Party refuses to provide the

indemnity, or within a reasonable time after written notice from the Indemnified Party, fails to defend a claim, demand or other matter to which the indemnification obligations apply, the Indemnified Party shall have the right, but not the obligation, to undertake the defense of, and to compromise or settle (exercising reasonable business judgment), the claim or other matter, on behalf, or for the account, and at the risk, of the Indemnifying Party. If the claim is one that cannot by its nature be defended solely by the Indemnifying Party, then the Indemnified Party shall make available all information and assistance to the Indemnifying Party that the Indemnifying Party may reasonably request. In the event of any dispute between the Indemnified party and the Indemnifying Party as to whether the claim is one to which the indemnification obligations apply, the matter shall be resolved in the manner of resolution of disputes, as provided in paragraph 9 hereunder. Except as specifically provided otherwise in Paragraph 9(b) (4) below with respect to tolling of limitations periods, the notice provided for hereunder shall be in addition to, and not in place of, any other notice that may be provided for or otherwise required under law.

8. *Force Majeure.* In addition to any other specific provisions of this Agreement, a Party hereto shall not be deemed to be in default under this Agreement where failure or delay in performance of any of such Party's obligations under this Agreement is caused by floods, earthquakes, winds, other Acts of God, power outages, equipment failure, acts of vandalism, fires or other casualties, wars, riots or similar hostilities, strikes and other labor difficulties beyond the Party's control, (including the Party's employment force), enactment of new or conflicting, laws or regulations, including any new listing of endangered species or designation of critical habitat for endangered species, court actions (such as restraining orders or injunctions), judicial actions such as issuance of restraining orders and injunctions, or other causes beyond such Party's control. If any one or more of such events occur, the term of this Agreement and the time for performance by any Party of any of its obligations hereunder shall be extended by the period of time that such one or more events prevented or delayed such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years. In the event that said period of time must be extended by more than five years, this Agreement shall automatically terminate.

9. *Administration of Agreement*

- a. *Books and Records.* Each Party shall have access to and the right to examine any of the other Party's pertinent books, documents, papers or other records (including, without limitation, records contained on electronic media) relating to the performance of that Party's obligations pursuant to this Agreement. Each Party shall retain all such books, documents, papers or other records to facilitate such review in accordance with that Party's record retention policy. Access to each Party's books and records shall be during normal business hours only.

Nothing in this paragraph shall be construed to operate as a waiver of any applicable privileges.

b. *Disputes.* The Parties recognize that there may be disputes regarding the obligations of the Parties or the interpretation of this Agreement. The Parties agree that they may attempt to resolve disputes as follows:

(1) *Statement Describing Alleged Violation of Agreement.* A Party or Parties alleging a violation of this Agreement (the "**Initiating Party(ies)**") shall provide a written statement describing all facts that it believes constitute a violation of this Agreement to the Party(ies) alleged to have violated the terms of this Agreement (the "**Responding Party(ies)**").

(2) *Response to Statement of Alleged Violation.* The Responding Party(ies) shall have sixty days from the date of the written statement to prepare a written response to the allegation of a violation of this Agreement and serve that response on the Initiating Party(ies) or to cure the alleged violation to the reasonable satisfaction of the Initiating Party(ies). The Initiating Party(ies) and the Responding Party(ies) shall then meet within thirty days of the date of the response to attempt to resolve the dispute amicably.

(3) *Mediation of Dispute.* If the Initiating Party(ies) and the Responding Party(ies) cannot resolve the dispute within ninety days of the date of the written response, they shall engage a mediator, experienced in water-related disputes, to attempt to resolve the dispute. Each Party shall ensure that it is represented at the mediation by a Director or Councilperson. These representatives of the Initiating Party(ies) and the Responding Party(ies) may consult with staff and/or technical consultants during the mediation and such staff and/or technical consultants may be present during the mediation. The costs of the mediator shall be divided evenly between the Initiating Party(ies) and the Responding Party(ies).

(4) *Prior to Claims Under California Tort Claims Act.* The Parties agree that the procedure described in this paragraph represents an effort to resolve disputes without the need for a formal claim under the California Tort Claims Act or other applicable law. The period of time for the presentation of a claim by one Party against another shall be tolled for the period from the date on which the Initiating Party(ies) file a written statement until the date upon which the mediator renders a decision.

461 (5) *Reservation of Rights.* Nothing in this paragraph shall require a Party to
462 comply with a decision of the mediator and, after the completion of the
463 mediation process described above, each Party shall retain and may
464 exercise at any time all legal and equitable rights and remedies it may
465 have to enforce the terms of this Agreement; provided, that prior to
466 commencing litigation, a Party shall provide at least five calendar days'
467 written notice of its intent to sue to all Parties.

468 c. *Termination of Agreement*

469 (1) *Failure to Obtain Permits.* The Parties recognize and acknowledge that
470 the implementation of this Agreement may require one or more Parties
471 to obtain permits or other regulatory approvals from one or more local,
472 state or federal regulatory agencies, including but not limited to the
473 Regional Water Quality Control Board, the California Department of
474 Fish & Game and the U.S. Fish & Wildlife Service or the U.S. Army
475 Corps of Engineers. Because of the significant regulatory uncertainties
476 associated with obtaining these permits or regulatory approvals, the
477 Parties agree that, if Valley District and Western have not received all
478 regulatory permits or approvals required or useful for groundwater
479 replenishment on the Leased Property within ten years from the
480 effective date of this Agreement, Valley District and/or Western may
481 terminate this Agreement at any time by providing the Conservation
482 District with one-year's written notice of such termination. In the event
483 that Valley District or Western, but not both wish to terminate this
484 Agreement, the Party wishing to terminate this Agreement shall be
485 allowed to terminate the Agreement as to itself and the remaining two
486 Parties may continue the Agreement on such terms as they deem to be
487 equitable.

488 (2) *Material Breach.* If one Party deems that another Party has materially
489 breached one of the provisions of this Agreement, the Parties shall use
490 the dispute resolution procedures set forth in paragraph 9. b. above in
491 an effort to resolve the dispute amicably. If, the dispute resolution
492 process described in paragraph 9. b. above is not successful in
493 resolving the dispute, any Party may terminate this Agreement for
494 material breach thereof, and may seek any remedy that it would
495 otherwise be entitled to in a court of law.

496 d. *Recordation of Agreement.* All Parties agree that this Agreement constitutes a
497 lease of certain lands by the Conservation District to Valley District and Western
498 for the purpose of constructing, operating, maintaining, repairing and
499 rehabilitating percolation basins and ancillary facilities on the Leased Property,
500 and consequently, all Parties agree that this Agreement should be recorded in the

Official Records of the County of San Bernardino. Valley District shall, within ten days of the effective date of this Agreement, cause this agreement to be recorded in the Official Records of the County of San Bernardino and shall promptly provide the Conservation District and Western with recorded copies of this Agreement upon receipt of such copies from the County of San Bernardino.

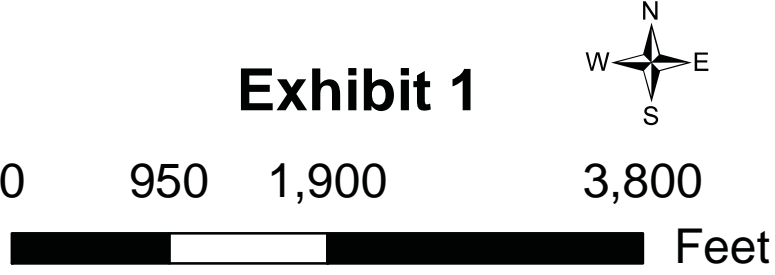
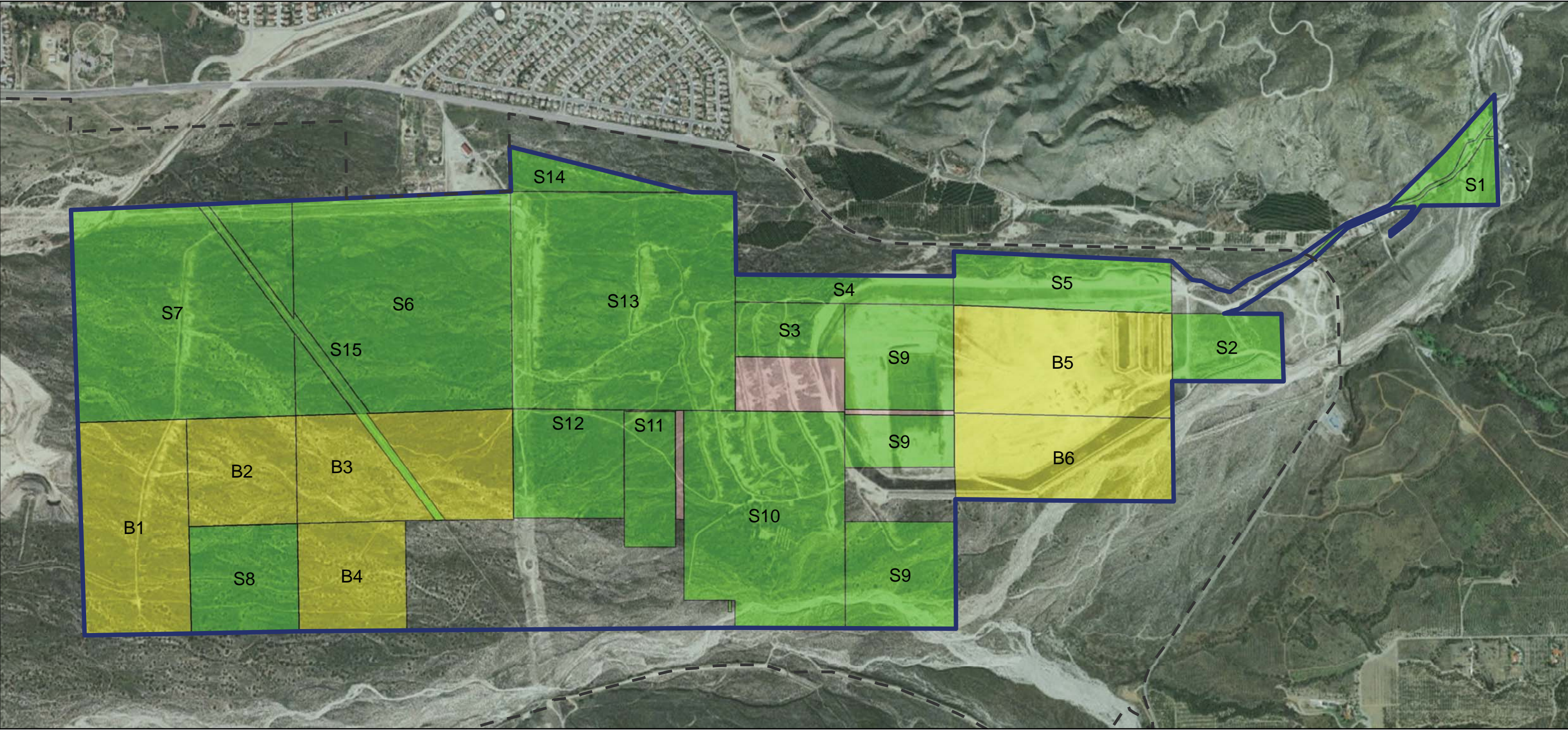
10. *General Provisions.*

- a. *Authority.* Each signatory of this Agreement represents that s/he is authorized to execute this Agreement on behalf of the Party for which s/he signs. Each Party represents that it has legal authority to enter into this Agreement and to perform all obligations under this Agreement.
- b. *Amendment.* This Agreement may be amended or modified only by a written instrument executed by each of the Parties to this Agreement.
- c. *Jurisdiction and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of California, except for its conflicts of law rules. Any suit, action, or proceeding brought under the scope of this Agreement shall be brought and maintained to the extent allowed by law in the County of San Bernardino, California.
- d. *Headings.* The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Parties to this Agreement.
- e. *Construction and Interpretation.* This Agreement has been arrived at through negotiations and each Party has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in the construction or interpretation of this Agreement.
- f. *Entire Agreement.* This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and, save as expressly provided in this Agreement, supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.
- g. *Partial Invalidity.* If, after the date of execution of this Agreement, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable. However, in lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

- 536 h. *Successors and Assigns.* This Agreement shall be binding on and inure to the
537 benefit of the successors and assigns of the respective Parties to this Agreement.
538 No Party may assign its interests in or obligations under this Agreement without
539 the written consent of the other Parties, which consent shall not be unreasonably
540 withheld or delayed.
- 541 i. *Waivers.* Waiver of any breach or default hereunder shall not constitute a
542 continuing waiver or a waiver of any subsequent breach either of the same or of
543 another provision of this Agreement and forbearance to enforce one or more of
544 the rights or remedies provided in this Agreement shall not be deemed to be a
545 waiver of that right or remedy.
- 546 j. *Attorneys' Fees and Costs.* The prevailing Party in any litigation or other action
547 to enforce or interpret this Agreement shall be entitled to reasonable attorneys'
548 fees, expert witnesses' fees, costs of suit, and other and necessary disbursements
549 in addition to any other relief deemed appropriate by a court of competent
550 jurisdiction.
- 551 k. *Necessary Actions.* Each Party agrees to execute and deliver additional
552 documents and instruments and to take any additional actions as may be
553 reasonably required to carry out the purposes of this Agreement.
- 554 l. *Compliance with Law.* In performing their respective obligations under this
555 Agreement, the Parties shall comply with and conform to all applicable laws,
556 rules, regulations and ordinances.
- 557 m. *Third Party Beneficiaries.* This Agreement shall not create any right or interest in
558 any non-Party or in any member of the public as a third party beneficiary.
- 559 n. *Counterparts.* This Agreement may be executed in one or more counterparts,
560 each of which shall be deemed to be an original, but all of which together shall
561 constitute but one and the same instrument.
- 562 o. *Notices.* All notices, requests, demands or other communications required or
563 permitted under this Agreement shall be in writing unless provided otherwise in
564 this Agreement and shall be deemed to have been duly given and received on: (i)
565 the date of service if served personally or served by facsimile transmission on the
566 Party to whom notice is to be given at the address(es) provided below, (ii) on the
567 first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other
568 similar overnight courier service, postage prepaid, and addressed as provided
569 below, or (iii) on the third day after mailing if mailed to the Party to whom notice
570 is to be given by first class mail, registered or certified, postage prepaid

571

| | |
|-----|---|
| 572 | Table of Exhibits |
| 573 | Exhibit 1 Leased Property including Exhibit 1A and 1B |
| 574 | Exhibit 2 Existing and Future Facilities |
| 575 | Exhibit 3 CEMEX Lease |
| 576 | Exhibit 4 Robertson's Ready Mix Lease |
| 577 | Exhibit 5 2010 State Water Rights Filing |



C. Brudin
14 Sept 2012
M:\2011 Projects\Land Ownership District_Exhibit1_Edits.mxd



EXHIBIT 1A
LEGAL DESCRIPTION
SBWWCD LANDS

THOSE PORTIONS OF SECTIONS 4, 6, 7 AND 8, TOWNSHIP 1 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN AND THOSE PORTIONS OF SECTION 12, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF HIGHLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

PARCEL S1: (A.P. NO. 0297-041-07)

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4, SAID PORTION LYING SOUTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTHWESTERLY TO THE SOUTHWEST CORNER OF SAID SECTION 4.

PARCEL S2: (A.P. NO. 0297-061-01)

THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 8.

PARCEL S3: (A.P. NO. 0297-051-06)

THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7, COMPRISING 20 ACRES, MORE OR LESS.

PARCEL S4: (A.P. NO. 0297-051-05)

THE SOUTH 20 ACRES OF THE NORTH OF THE NORTHEAST QUARTER OF SAID SECTION 7.

PARCEL S5: (A.P. NO. 0297-061-03)

THE SOUTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 8, COMPRISING 40 ACRES, MORE OR LESS.

PARCEL S6: (A.P. NO. 0291-151-02)

THE NORTHEAST QUARTER OF SAID SECTION 12, EXCEPT RAILROAD RIGHT-OF-WAY AND EXCEPT STATION AT APLIN AND COMPRISING 157 ACRES, MORE OR LESS.

PARCEL S7: (A.P. NO. 0291-151-01)

THE NORTHWEST QUARTER OF SAID SECTION 12, EXCEPT RAILROAD RIGH-OF-WAY.

PARCEL S8: (A.P. NO. 0291-161-04)

THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12.

PARCEL S9: (A.P. NO. 0297-051-07, 0297-051-08, 0297-051-09, 0297-051-10, 0297-071-09, 0297-071-10, 0297-071-13, 0297-071-14, 0297-071-16, 0297-071-17)

LOTS 1 THROUGH 6 AND LOTS 9 THROUGH 12 OF VAN BUREN TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 69 OF MAP IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL S10: (A.P. NO. 0297-071-08)

THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 7, COMPRISING 80 ACRES, MORE OR LESS.

LEGAL DESCRIPTION (Continued)

PARCEL S11: (A.P. NO. 0297-071-02, 0297-071-03, 0297-071-04)

LOTS 4 THROUGH 15 OF CHICAGO SUBDIVISION TO REDLANDS, AS SHOWN ON A MAP RECORDED IN BOOK 12, PAGE 52 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL S12: (A.P. NO. 0168-311-06)

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 7.

PARCEL S13: (A.P. NO. 0297-051-01 AND 0297-051-02)

THE NORTHWEST QUARTER OF SAID SECTION 7.

PARCEL S14: (A.P. NO. 0297-011-07)

THAT PORTION OF THE SOUTHWEST QUARTER OF SAID SECTION 6, LYING SOUTH OF THE SOUTH LINE OF THE EXISTING METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA PIPELINE RIGHT OF WAY AS THE SAME NOW EXISTS. EXCEPT THAT PORTION THEREOF CONVEYED TO THE NORTHFORK WATER COMPANY BY DEED RECORDED MARCH 7, 1909 IN BOOK 388 OF DEEDS, PAGE 120, RECORDS OF SAID COUNTY.

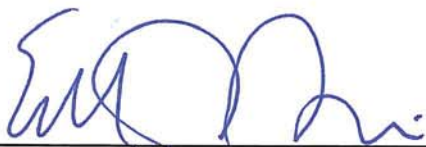
PARCEL S15: (A.P. NO. 0291-151-05)

PARCEL 1 OF THAT CERTAIN DEED RECORDED JUNE 28, 1984 AS INSTRUMENT NO. 84-152554 OF OFFICIAL RECORDS, RECORDS OF SAID COUNTY.

SUBJECT TO ALL RESERVATIONS, RESTRICTIONS, EASEMENTS, OFFERS OF DEDICATIONS, RIGHTS AND RIGHT OF WAYS OF RECORD.

This legal description was prepared by me or under my direction.

By: _____



Edward J. Bonadiman, P.L.S.

Date: 09/17/2012 L. S. #:7529



EXHIBIT 1B
LEGAL DESCRIPTION
BLM PROPERTY ACCESS

THOSE PORTIONS OF SECTION 8, TOWNSHIP 1 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN AND THOSE PORTIONS OF SECTION 12, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF HIGHLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

PARCEL B1: (A.P. NO. 0297-161-05)

THE WEST HALF THE SOUTHWEST QUARTER OF SAID SECTION 12.

PARCEL B2: (A.P. NO. 0297-161-06)

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12.

PARCEL B3: (A.P. NO. 0297-161-01)

THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 12.

PARCEL B4: (A.P. NO. 0297-161-03)

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 12.

PARCEL B5: (A.P. NO. 0297-061-02)

THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 8.

PARCEL B6: (A.P. NO. 0297-061-02)

THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 8.

SUBJECT TO ALL RESERVATIONS, RESTRICTIONS, EASEMENTS, OFFERS OF DEDICATIONS, RIGHTS AND RIGHT OF WAYS OF RECORD.

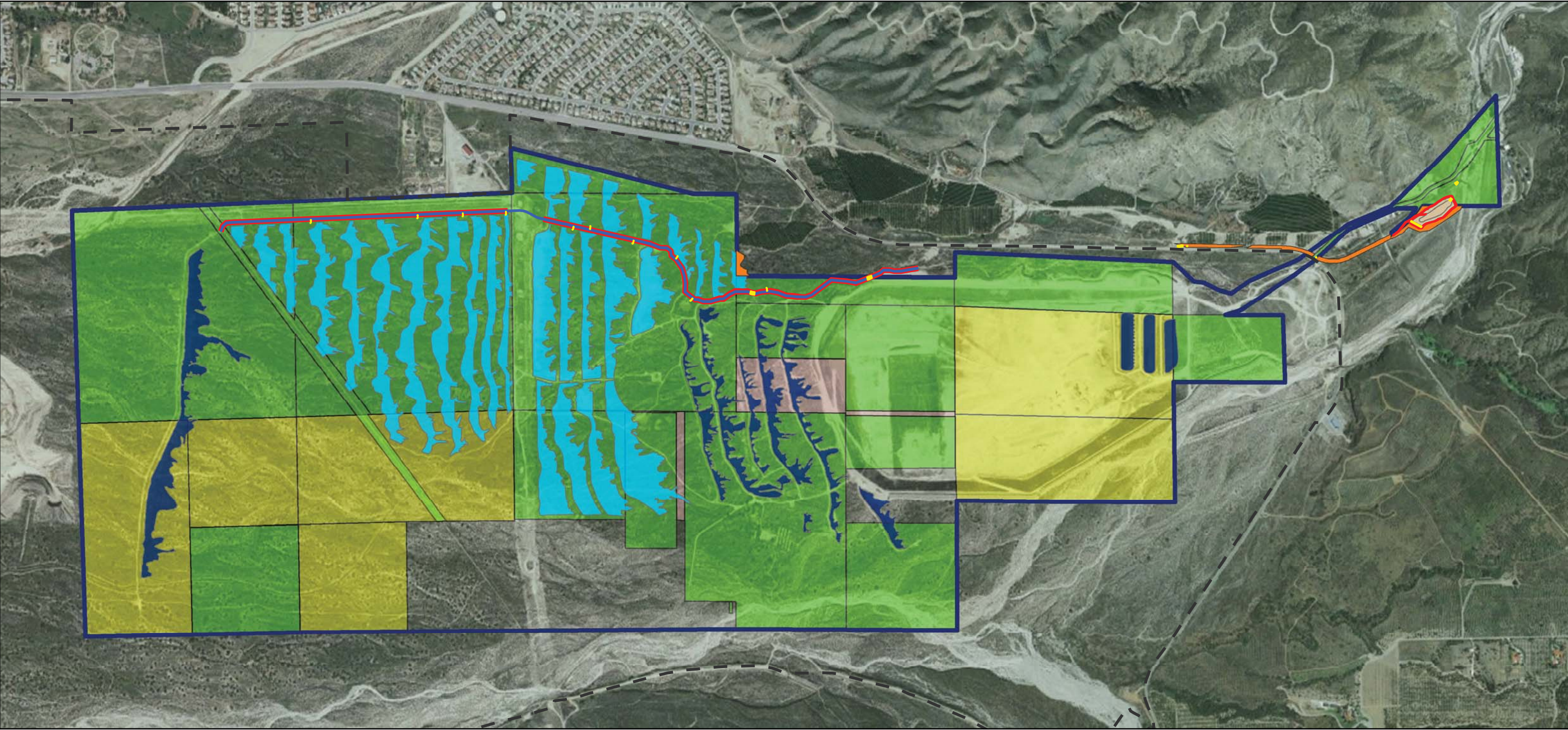
This legal description was prepared by me or under my direction.

By: _____



Edward J. Bonadiman, P.L.S.
Date: 09/17/2012 L. S. #:7529

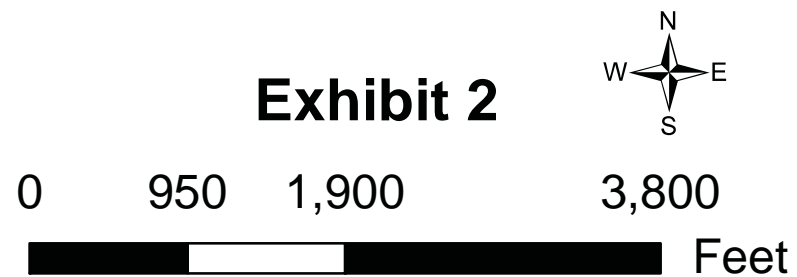




Legend

- | | |
|-------------------------------|---------------------------------|
| -- -- Wash Plan Area Boundary | Pipeline Easement |
| Structures | Planned Improvements |
| Canal | SAR Recharge Area (1485 Acres) |
| Access Road | SBVWCD Lands (952 Acres) |
| Existing Basins | BLM Property Access (513 Acres) |
| Sedimentation Basins | Other Ownership Limited Access |

Exhibit 2



C. Brudin

14 Sept 2012

M:\2011 Projects\Land Ownership District_Exhibit1.mxd



Tweak Robert's Rules To Power Up Discussion

It may sound obvious, but one of the most helpful things a board can do is to explore the possibilities around an idea or proposal before making a decision. When a board is facing a situation or an issue and action seems necessary, taking the time to explore different options will often result in a better decision. Many casual boards do this routinely.

More formal boards may feel hampered by the requirement that you must move a motion—a specific proposal—before any discussion can begin. Robert's Rules of Order Newly Revised, 11th edition, states that “until a matter has been brought before the assembly in the form of a motion proposing a specific action, it cannot be debated” (p. 386).

We understand the impulse behind this rule, and we have been in many a rambling meeting where asking someone to move a specific proposal would have helped focus the discussion and improve it. Sometimes, however, the opposite is true. A colleague described a recent board meeting in which, in order to start discussion of different topics, board members proposed the first motion that came to mind, which in many cases was not a good formulation. After some desultory debate, motions were withdrawn or defeated in short order. It was not a productive way to proceed—observing the letter of Robert's Rules but breaking the spirit.

Robert specifically allows small boards of up to about 12 people to discuss matters without a motion before them: “informal discussion of a subject is permitted while no motion is pending” (p. 488). A small board can take advantage of this and many do.

A larger group that uses Robert's Rules can allow for free discussion in the moment simply by voting to suspend the rules (by a two-thirds vote) and discuss a given topic without a motion. If the need for such discussion comes up often, the group can adopt a special rule of order (a permanent rule) allowing this mode.

Whichever size of group you have, and whatever mode of discussion you choose, we strongly urge that your group follow the rule that no one may speak a second time until everyone who wishes to do so has spoken once (p. 379). This is the single most significant step that any group can take to improve its deliberations. When the whole group hears from everyone who

wishes to contribute, the chances of groupthink and self-censorship are minimized. This rule is often ignored, but it makes a vital difference in ensuring fairness and better discussion.

Of course members who don't wish to speak up are not required to do so, but we have found that when the introverts, the newcomers, and the quieter folks are given a fair chance to have their say, the quality of the meeting, and the decisions made, are much improved.

Another very powerful technique is to hold one full round of discussion—hearing from everyone in the group in turn—before any motion is moved, or before any amendment to a motion is proposed. If possible, note member views on a whiteboard or flipchart so everyone can see the points that are made and keep them in mind. Writing ideas down so that everyone can see them reassures participants that they have been heard and saves time by forestalling discussions that seem to spin in circles. Getting the full picture of members' individual perspectives also provides a broader canvas for deliberation, allowing the group to see many different aspects “in the round,” so to speak.

The presider or a member can suggest this idea to the group, and with a two-thirds vote, it can be adopted either for a specific meeting, or as a special rule of order. This method results in much better decisions, since everyone's point of view is included and taken into account. These “tweaks” to Robert's Rules can power up your discussions in a remarkable way.

Written by: Ann G. Macfarlane, PRP, Jurassic Parliament, www.jurassicparliament.com

Note On How To Adopt A Special Rule Of Order:

Special rules of order are permanent rules, specific to your group, that guide your discussions. The size of the group makes a difference in how to adopt them. For a body with a large membership, give advance notice of the proposed rules and then take a vote; if two-thirds of those voting are in favor, they are adopted. For a smaller membership body like a board, all that is necessary is that a majority of the entire membership of the board vote in favor. No advance notice is needed, though circulating the proposals ahead of time is likely to increase buy-in from the members.

Sample Special Rule Of Order:

In order to allow for full consideration of issues before decisions are made, the chair may at any time propose that our group consider a topic “informally.” In informal discussion it is not necessary to have a motion on the floor. Members will provide their opinions and discuss the topic until the group is ready to propose a formal motion. If the group is divided about whether to consider a matter “informally,” the chair will call for a vote; a majority vote will authorize informal discussion. During all discussion, whether formal or informal, no one may speak a second time until everyone who wishes to do so has spoken once.

1 COUNSEL IDENTIFICATION
2 ON FINAL PAGE
3
4

5 JS-6
6
7

8
9 **UNITED STATES DISTRICT COURT FOR THE**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **SOUTHERN DIVISION**

12 BEAR VALLEY MUTUAL WATER CO.,
13 et al.,

14 Plaintiffs,

15 v.

16 KENNETH L. SALAZAR, et al.,
17 Federal Defendants,

18 CALIFORNIA TROUT, et al.
19 Defendant-Intervenors.

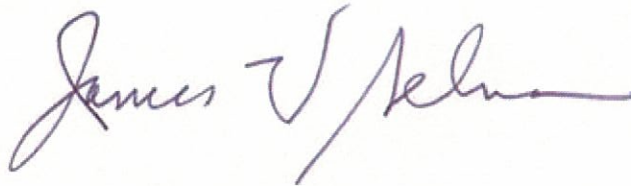
11-CV-01263-JVS(AN)

20 **ORDER**
21 **AND JUDGMENT**
22
23
24
25
26
27
28

20 Based upon Defendants' motion for summary judgment, the oppositions
21 thereto, and it appearing that Defendants' motion for summary judgment should be
22 granted and that Federal Defendants are entitled to a judgment in their favor,
23 therefore,
24
25
26
27
28

1 IT IS ORDERED, ADJUDGED AND DECREED that judgment shall be
2 entered in favor of Federal Defendants, the above-captioned case shall be
3 dismissed, and each party shall bear its own fees and costs.

4 Dated: This 23d day of October, 2012, in Santa Ana, California.

5
6
7
8


9 THE HONORABLE JAMES V. SELNA
10 United States District Judge
11

12 PRESENTED BY:

13 IGNACIA S. MORENO,
14 Assistant Attorney General
15 U.S. Department of Justice
Environment & Natural Resources Division

16 KRISTEN BYRNES FLOOM (DC Bar # 469615)

17 kristen.floom@usdoj.gov

18 ETHAN EDDY (Cal. Bar. # 237214)

19 ethan.eddy@usdoj.gov

20 JAMES A. MAYSONETT (DC Bar # 463856)

21 james.maysonett@usdoj.gov

22 ANDREA GELATT (Cal. Bar # 262617)

23 andrea.gelatt@usdoj.gov

24 Wildlife & Marine Resources Section

25 Environment & Natural Resources Division

26 U.S. Department of Justice, P.O. Box 7611

27 Washington, D.C. 20044-7611

28 Tel: (202) 305-0210 | Fax: (202) 305-0275

Attorneys for Federal Defendants

CERTIFICATE OF SERVICE

I hereby certify that today, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record for Defendant-Intervenors and for Plaintiffs, the latter having agreed to accept service on behalf of all Plaintiffs in this litigation.

/s/ Andrea Gelatt
ANDREA GELATT