ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

NOTICE OF REGULAR MEETING OF BOARD OF DIRECTORS

DATE:	**Wednesday, October 15, 2014**
TIME:	**6:00 p.m. CLOSED SESSION**
	7:00 p.m. OPEN SESSION (time approximate)
LOCATION:	**Zone 7 Administration Building** **100 North Canyons Parkway, Livermore, California**

Any member of the public desiring to address the Board on an item under discussion may do so upon receiving recognition from the President. After receiving recognition, please step to the podium and state your name and address.

In compliance with the Americans with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available at the Zone 7 Administrative Building lot. If you are a person with a disability and you need disability-related modifications or accommodations to participate in this meeting, please contact the Zone 7 Board Secretary, Judy Rector, at (925) 454-5053 or fax (925) 454-5724. Notification 48 hours prior to the meeting will enable Zone 7 to make reasonable arrangements to ensure accessibility to this meeting. {28 CFR 35.102-35, 104 ADA Title II}

AGENDA

1. CLOSED SESSION - OPEN SESSION TO FOLLOW AT APPROXIMATELY 7:00 P.M.

   (a) Government Code Section 549547; Public Employee Performance Evaluation
   Title: General Manager

   (b) Conference with Legal Counsel - Significant exposure to litigation pursuant to Gov't Code Section 54956.9(d) (2): 3 cases

   (c) Conference with Legal Counsel - Potential litigation pursuant to Gov't Code section 54956.9(d) (3): 1 case

   (d) Conference with Legal Counsel - Existing litigation pursuant to Gov't Code Section 54956.9(d) (1):

   Alameda County Flood Control and Water Conservation District, Zone 7 v. Pleasanton Gravel Co., Alameda County Case no. HG14724177

   Contra Costa Water District, et al., versus Sacramento Regional County Sanitation District, Sacramento County, Case No. 05CS00908 (Consolidated with Case No. 05CS00913)

   (e) Conference with Labor Negotiators:
   Agency Negotiator: G.F. Duerig
   Employee Organizations: Alameda County Management Employees Association; Alameda County Building and Construction Trades Council, Local 342, AFL-CIO; International Federation of Professional and Technical Engineers, Local 21, AFL-CIO; Local 1021 of the Service Employees International Union, CTW; Unrepresented Management.

2. Open Session and Report Out of Closed Session (approximate time: 7:00 p.m.)
3. Call Meeting to Order
4. Pledge of Allegiance

5. Citizens Forum

This is an opportunity for members of the public to speak on an item <u>*not*</u> *listed on the agenda. The Board cannot deliberate or take action on a non-agenda item unless it is an emergency as defined under Government Code Section 54954.2.*

6. Minutes of the Regular Meeting of September 17, 2014, and Special Meeting of October 1, 2014

7. Consent Calendar

   a. Joint Funding Agreement with USGS for Annual Stream Gauge Operations and Maintenance
   b. Amend Contracts for Records Management Software Equipment and Support Services
   c. Resolution Proclaiming the Week of October 20-25, 2014 to be California Flood Preparedness Week
   d. Personnel Action: Buyer I/II Position

8. Staffing Update:

   a. August Employee of the Month Recognition

9. Draft FY 15/16 Capital Improvement Program:
   - Ten-Year Water System Plan
   - Five-Year Flood Protection Plan

   <u>Recommended Action: Adopt resolution.</u>

10. Treated Water/Recharge Rate Schedules for 2015 and 2016

    <u>Recommended Action: Adopt resolutions.</u>

11. Untreated Water Rates for 2015

    <u>Recommended Action: Adopt resolution.</u>

12. Proposed 2015 Municipal & Industrial Water Connection Fee

    <u>Recommended Action: Adopt resolution.</u>

13. Agreements Associated With the El Charro Specific Plan Agreement

    <u>Recommended Action: Adopt resolutions.</u>

14. Proposed Well Ordinance

    <u>Recommended Action: Discuss and provide direction.</u>

15. Committees - Joint Water Liaison Meeting with DSRSD/Zone 7/ - August 27, 2014 - pending
    Joint Water Liaison Meeting with Retailers/Wholesaler - September 27, 2014 - notes
    Water Resources Committee Meeting - October 6, 2014 - notes

16. Reports – Directors

    a. Verbal comments by President
    b. Written report by Director Quigley
    c. Verbal reports

17. Items for Future Agenda – Directors

18. Staff Reports (Information items. No action will be taken.)

a. General Manager's Report
b. Monthly Budget Report
c. September Legislative Update
d. September Outreach Activities
e. Drought Update
f. Verbal Reports

19. Adjournment

20. Upcoming Board Schedule: (All meeting locations are in the Boardroom at 100 North Canyons Parkway, Livermore, California, unless otherwise noted)

a. Special Board Meeting (if needed): October 29, 2014
b. Water Resources Committee Meeting: November 6, 2014, 4:00 p.m.
c. Liaison Committee Meeting: November 17, 5:00 p.m.
d. Regular Board Meeting: November 19, 2014 7:00 p.m.

Materials related to an item on this agenda that have been provided to the Board less than 72 hours prior to the meeting are available for public inspection at the Zone 7 office at the time of, and prior to, the meeting and at www.zone7water.com. All other material otherwise provided to the Board will be available at the public meeting.

MINUTES OF THE BOARD OF DIRECTORS
ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

REGULAR MEETING

September 17, 2014

President Greci called the meeting to order at 7:00 p.m. The following were present:

DIRECTORS:	SANDY FIGUERS JOHN GRECI JIM MCGRAIL SARAH PALMER DICK QUIGLEY ANGELA RAMIREZ HOLMES BILL STEVENS
DIRECTORS ABSENT:	NONE
ZONE 7 STAFF:	JILL DUERIG, GENERAL MANAGER KURT ARENDS, ASSISTANT GENERAL MANAGER, ENGINEERING JUDY RECTOR, BOARD SECRETARY
COUNSEL:	DAVID ALADJEM, DOWNEY BRAND

Item 1 - Call Meeting to Order

President Greci called the meeting to order at 7:00 p.m.

Item 2 - Pledge of Allegiance

President Greci led a salute to the flag.

Item 3 – Citizens Forum - none.

Item 4 - Minutes of the Regular Meeting of August 20, 2014

Director Palmer corrected the minutes on Page 3 by adding a comma to a sentence for clarification. The revised sentence reads as follows, "Director Quigley confirmed that the life expectancy of the facilities would be between 20 and 30 years so, as long life cycle assets, and after the investment is paid, considerable money could be saved." Director Quigley moved and Director Ramirez Holmes seconded the motion to approve the minutes of August 20, 2014. The minutes were approved by a voice vote of 6-0-1-0 with Director Figuers abstaining.

Item 5 - Consent Calendar

Director Quigley pulled Item 5(b) on the Patterson Ranch Lease Extension. Director Ramirez Holmes pulled Item 5(c) on Support for Continued Temporary Water Service for Livestock.

Item 5(a) – Request for "Out of State" Travel to attend the AWWA Cal-Nevada Section Annual 2014 Fall Conference in Reno, Nevada

Resolution No. 15-08	Approved out-of-state travel expenses for Bill Sadler, Kevin Correia and Colter Andersen to attend the 2014 CA-NV AWWA Fall Conference in Reno, Nevada. (Item 5a)

Director Palmer moved for approval of Item 5(a) and Director Quigley seconded the motion, which was approved by a voice vote of 7-0.

Item 5(b) – Patterson Ranch Lease Extension

President Greci reported that there was a Patterson Ranch Ad Hoc meeting recently and Director Quigley had questions about the meeting. Director Quigley said the agenda item surprised him because of the discussion on Patterson Ranch at the board retreat in July. Kurt Arends, Assistant General Manager of Engineering, responded that he understands Director Quigley is concerned about why it will take a year to develop a Range Management Plan and going through the RFP process.

Mr. Arends showed the Board and audience a draft schedule, which included a 13-month lease extension as part of the current lease, which expires on September 30th. A final draft Grazing Management Plan will be coming by the end of the month. Once that draft is received, Zone 7 staff will be reviewing and arranging for a peer review of the management plan.

It could take several months to finalize the plan. A Request for Proposals will be sent out and responses returned by February. After review, staff hopes to come to the Board in April with a proposed lease for the property. The current tenants requested a six-month notice to vacate the property due to equipment, material, belongings and livestock that would have to be moved. By coming to the Board in April, there will be six months before this proposed lease would expire on November 1, 2015.

Director Palmer said a hydrologic year is needed to be able to judge what is going on with a range management plan. Mr. Arends said getting through a season to know what plants are out there by the time the RFP is sent out would be difficult. A better grazing management plan could be done if given more time but it would delay the process. Director Palmer replied that if it is so important, why are we in a hurry and why not do it right. General Manager Jill Duerig clarified that the portions of the range management plan crucial to the RFP will be completed. The only thing that will be lacking is a complete inventory of the plants and the hydrology. This does not necessarily drive what will be in the grazing management portion of the RFP. Zone 7 will probably not be able to have a complete range management plan, which includes everything until we have a normal winter, which may be several years away.

There was further general discussion about the property, value to Zone 7 and the community and how board Ad Hoc committees report.

President Greci said he is happy to hear that SFPUC will do a peer review because SFPUC has been doing this for years. He reminded everyone that Patterson Ranch was not bought to make money on the lease, but to manage a watershed and that is the most important part of this lease. Some cattlemen who lease property are not familiar with watershed management and their interest is in feeding cattle and lessors aren't always interested in regrowth and reseeding for the next year for their cattle. In a watershed management plan, a higher percentage of the grass is left and you have to be more cognizant of the amount of grass that you leave so you hold back silt and erosion control. There are a lot of other issues involved with the grazing management plan and watershed management and it has to be done right.

Director Figuers moved for approval and Director Ramirez Holmes seconded the motion, which was approved by a voice vote of 7-0.

Resolution No. 15-09	Approved a thirteen-month extension to the existing lease with the existing lessee of the Patterson Ranch property. (Item 5b)

Item 5(c) – Support for Continued Temporary Water Service for Livestock

Director Ramirez Holmes asked that Item 5 (d) be pulled. Director Ramirez Holmes explained that she is in favor of providing temporary water service for livestock in the Tri-Valley service area but her concern is language in the agenda item stating "not limiting such service to the Zone 7 service area" and referred to an article in the local newspaper that someone traveled 30 miles into the area to truck water out. Given the limited amount of water available to the Tri-Valley, she is concerned that another agency might restrict water use to the point that their residents come here for water. Mr. Arends said historically we have provided water for agricultural livestock users at Patterson Pass. He explained that this item is part of the request by Supervisor Haggerty to try and limit barriers to allow expanded water use in a drought emergency and is almost a humanitarian issue of keeping livestock alive and healthy. Zone 7 can always refuse but this item allows Zone 7 to be a source for agricultural livestock users. Our current temporary contracts do allow us to limit use to the service area so technically water should not be leaving the service area; however, we would like to remove that barrier where acceptable, so if we are the closest source of water and have a reasonable request, we can provide water and they can maintain their livestock. This is not a lot of water from an agency perspective, maybe 10-20 acre feet a year.

Director Figuers asked if cattle can drink reclaimed water but President Greci said the salt content is too high. President Greci gave background details about water hauling and feels this is the humanitarian thing to do.

Director Ramirez Holmes said she cannot support the item as written. She wants to support the continued temporary water service for livestock in the Zone 7 service area, but with discussions about drought surcharges and raising rates and given that the board does not know what will happen next year in terms of the drought, she can't support supplying water outside of the service area.

Director McGrail added that the board is here to protect our residents and the board has a duty to the people they represent. The directors discussed the cost of hauling water, watershed coverage outside of the service area, and serving people outside of Zone 7's sphere of influence. Director Figuers suggested the idea of providing water outside of Zone 7's service area should be addressed again next spring when they know more about if the drought continues. Director Ramirez Holmes said that this would be a change in policy so maybe keep the policy and revisit in the spring if more water is available. Ms. Duerig added that the contracts refer to use in the service area but it has never been enforced and there are exceptions where water is going outside the service area. It does not involve that much water and most is used locally because it is expensive to haul water. It also gives a message to the local ranching community that Zone 7 cares about them and we don't deny them due to politics. She agreed that it is a change in policy and that is why it came before the board.

Director Stevens moved for approval and Director Figuers seconded the motion, which was approved by a roll call vote of 6-1 with Director Ramirez Holmes voting no.

Resolution No. 15-10	Temporary water service for beneficial uses including the support of livestock operations. (Item 5c)

Item 6 - Staffing Update

Ms. Duerig announced that the July Employee of the Month is Steve Ellis, Associate Civil Engineer in the Facilities Engineering Section. The Directors applauded him in absentia.

Item 7 – Agreement in Principle Concerning Extension of the State Water Project Water Supply Contract

Ms. Duerig introduced Theresa Lightle and Julie Ramsay from the State Water Contractors. Ms. Lightle made a presentation to the Finance Committee on August 28, 2014, and the Finance Committee directed staff to bring this item to the full Board for consideration. Ms. Lightle discussed the negotiations for a contract extension for the State Water Project Water Supply contracts. In late 2011, informed discussions began with the Department of Water Resources (DWR) and objectives for formal negotiations were established limiting them to the financial articles of the contract and excluding water supply or water reliability issues. Formal negotiations began in May of 2013 and concluded in March of 2014. The Agreement in Principle (AIP) captured the consensus principle that will be used as the foundation for a future contract extension amendment. DWR asked that the contractors make a decision regarding the adoption of these Principles by the end of September. The Principles are limited to the current facilities and contract terms and do not cover the Delta Habitat Conservation and Conveyance Program (DHCCP) project. The AIPs that were negotiated will be used to scope the project descriptions in the EIR process. DWR anticipates completing the CEQA process by mid-2016 and then the review and adoption of the contract extension will take place.

The majority of the water supply contracts are in effect until 2035. The objectives of the negotiations were to continue service beyond 2035, secure financial capability beyond 2035, ease financial compression caused by a capital amortization billing method, and improve the financial management of the water supply system. The State Water Contractors (SWC) was able to get DWR to agree in principle to extend the contract from 2035 to 2080, adopt a freeze-go billing methodology to address billing simplification and payment compression, create a forum for contractors to participate in financial policy development and recommendations to the DWR Director via a State Water Resources Development System (SWRDS) Committee which is the first of its kind and is a joint committee between the SWCs and DWR.

A September 16, 2014, letter from Dublin San Ramon Services District was distributed to the Directors and the public.

Director Stevens moved for approval and Director Figuers seconded the motion, which was approved by a roll call vote of 7-0.

Resolution No. 15-11	Authorized the Agreement in Principle to extend the State Water Project Water Supply Contract. (Item 7)

Director Figuers had to leave the meeting early and asked that Item 10 be heard out of order before Items 8 and 9.

Item 10 - Clarifying the Role of Committees

Ms. Duerig said staff is asking for clear direction from the Board on clarifying the role of committees. Specifically there have been questions from the Finance Committee members on what is the role of the Finance Committee and who determines scheduling, agenda setting and the frequency of committee meetings.

Director Figuers said the role of the Finance Committee has been well defined and is to interact with staff on financial details concerning the Board and Zone 7. The second issue regarding who determines scheduling, agenda-setting and frequency of Committee Meetings has become a contentious item. He said the Chair has always controlled the agenda but through reading the rules and regulations the Board follows, found there is no statement in those rules that say that the Chair controls the agenda. This has been the practice but the Chair cannot prevent any member from requesting that an item be put on the agenda. The Chair may delay the request for specific reasons but cannot prevent an item from eventually being put on the agenda to be discussed by the Board if that is a director's wish. In those documents and in Roberts Rules of Order, there is no mention of committees. Director Figuers said he made a request to the Board Secretary that an item be put on the Finance Committee agenda and it was pulled by the General Manager. The second time it was a non-action discussion item on the internal workings of the Finance Committee. In his opinion, the General Manager had no authority to pull an item that a director/Chair had wanted on the agenda. When he questioned the General Manager's decision, he was told that it was based upon the documents that Zone 7 has relied on to conduct committee meetings but, in looking at those documents, they were mute on the subject. Director Figuers said he has been the Finance Committee Chair three times and has yet to have a committee meeting agenda shown to him in advance for his approval.

Ms. Duerig said the Finance Committee is unique because other committees do not have a chair. She said she consults with the President of the Board when setting agendas and asks whether an item makes more sense to come to the full board or go to a committee first. This topic was raised by Director Figuers and added to the agenda for the Board Retreat. When Director Figuers raised it again, she was directed to put it on tonight's agenda to get Board direction.

Director Palmer said the extra communication step of getting agenda approval by the Chair of the committee sets it up for dialogue. Director Figuers said if a board member wants something on the agenda, they should submit it in writing to the General Manager, in advance, asking that the subject be put on the agenda. Director Ramirez Holmes felt there was a dialogue in this instance but the concern is who has the right to put things on an agenda.

The directors discussed the committees having a chair and all agreed that the Finance Committee could have a chair. President Greci said if there is a concern that directly references the committee, it is a valid issue that all three committee members should discuss. If they want it on a committee agenda, and there is a Chair, let the Chair put it on the agenda.

In response to a question from Matt Morrison about a Brown Act violation, General Counsel David Aladjem said that if there is a standing committee of three people, they cannot talk prior to the meeting. But if a director has an item they would like on the agenda, they can talk to the Chair, if there is one, and the Chair would work with the General Manager to put it on the agenda. The Board agreed by a voice vote of 7-0 that this is the direction provided to staff.

Director Figuers left the meeting at 8:35 p.m.

Item 8 – Tri-Valley Intergovernmental Reciprocal Services Master Agreement

Ms. Duerig said that General Counsel David Aladjem and the Cities of Livermore, Pleasanton, Dublin, San Ramon and DSRSD have been working on ways to collaborate and coordinate more closely. Mr. Aladjem and the other attorneys have been working together to develop a master agreement they all felt was reasonable and are bringing it to the Board now as a possibility. It forms the framework for resource sharing so if, i.e., City of Livermore wanted to use Zone 7 staff, facilities or equipment, we would enter into a separate task agreement but this streamlines that process. This would be a huge step forward in intergovernmental coordination and Zone 7 staff is recommending approval along with other agencies asking their boards for approval.

Ms. Duerig responded to Director Stevens' question about the task orders. Although they could be complicated, it depends upon the agency and task involved. Director Stevens asked if the Unions will abide by this master agreement. General Counsel Aladjem said the agencies all have unique work requirements and that is why this is a framework agreement but the Unions are involved. Director Stevens inquired about liability and insurance if a worker is injured and was told they would be covered.

Director Palmer said this addresses LAFCO's issues and that all participants stand to save money because of the ability to rapidly respond to each other's problems and be flexible. Director Ramirez Holmes added that it would be a formal agreement to extend some of the items that are already cost shared, such as the chemical consortium, and to do things more efficiently.

Director Quigley wants to know if there is a way to tell the public when agencies work together. Ms. Duerig said she would anticipate that this will be noted in the GM Monthly Report.

Director Palmer moved for approval and Director Quigley seconded the motion, which was approved by a roll call vote of 6-0 with Director Figuers absent.

Resolution No. 15-12	Authorized the Tri-Valley Intergovernmental Reciprocal Services Master Agreement. (Item 8)

Item 9 - Proposed Position on Water Bond

Ms. Duerig said that she had promised the Board that she would update them on DSRSD's vote on the water bond and they did vote to support it last night.

Director Stevens asked if Zone 7 has not supported a water bond in the past, why are we doing this now? Ms. Duerig said the water bond has been discussed since a 2009 water package of legislation was proposed and it has been modified a lot. The current administration decided that it was "bloated." When they came up with the California Water Action Plan and were scrutinizing the financial aspects, they made sure the Action Plan would have funding in this bond but cut most everything else. Since the Zone 7 board took a position to support the California Water Action Plan, staff wanted to bring the Board the opportunity to support the water bond, which funds the Water Action Plan. In addition, this community often looks to the Zone 7 Board for leadership in water actions as people try to decide what to vote in November and they will look at the Zone 7 Board's position.

Director Stevens moved for approval and Director Quigley seconded the motion, which was approved by a roll call vote of 5-0-1-1 with Director McGrail abstaining and Director Figuers absent.

Resolution No. 15-13 Supporting Proposition 1, the Water Quality, Supply and Infrastructure Improvement Act of 2014. Item 9)

Item 11 - Committees - Retailers/Wholesaler Liaison Committee Meeting - August 17, 2014 - notes pending
Finance Committee Meeting - August 28, 2014 - notes
Finance Committee Meeting - September 8, 2014 - notes

Item 12 - Reports - Directors

a. Verbal comments by President - none.
b. Written report by Director Quigley
c. Verbal Reports
d. Director Stevens reported on the Subsidence Conference at UC Davis that he attended and a lot of things are being done with subsidence in the valley that he will be talking to staff and the General Manager about. Now groundwater subsidence is being measured with radar and it could be costly but the costs will go down. It is a very easy system and they can catch people pumping which is already happening in the valley. If we have another year of drought, we definitely need to think about it.

   Ms. Duerig thanked Director Stevens for sharing slides from the conference with staff and said it was very helpful.

   Director Quigley noted that the address was wrong on the flyer for the ACWA Region 5 event and it did not note the panels or panelists Jill Duerig and Bert Michalczyk. The keynote speaker is Phillip Duffy who will talk about global warming.

   Director Palmer noted the 3-D sandbox model in Tahoe and at the Berkeley Livermore Science facility. In real time you can model watersheds and other things with sand and it is very dynamic.

Item 13 - Items for Future Agendas - Directors

Randy Werner, City of Livermore, asked if staff will be talking about the local effects of Governor Brown's groundwater legislation. Ms. Duerig told the Board the package of three bills was landmark legislation, which will change groundwater law across the state. The good news for Zone 7 in this valley is that our Groundwater Management Program was recognized in the legislation by name as an existing sustainability agency along with 15 to 20 other agencies. This was an acknowledgement on the state level of doing it right and this is the type of program other agencies should be looking at. Ms. Duerig said staff is hoping to accelerate some pending projects such as the well ordinance, which will bolster our position and ability to sustainably manage the groundwater basin. Another piece is a Nutrient Management Plan that is part of the state's recycled water policy but Zone 7 was not required to have one in this valley because we have a Salt Water Management Plan and were grandfathered in.

Director Stevens asked when was the last time Zone 7 took survey measurements on our subsidence monitoring points? Ms. Duerig replied that it is done at least annually as part of the

Groundwater Management Plan and is part of the Groundwater Management Plan Update. Director Stevens asked for a staff report of the results and Ms. Duerig said she will get back to him with a copy because it is part of the report and on the Zone 7 website.

Item 14 - Staff Reports (Information items.)

a. General Manager's Report
b. Monthly Budget Update
c. August Legislative Update
d. August Outreach Activities
e. Drought Update
f. Update Related to the Bay Delta Conservation Plan
g. Verbal Reports

The board went into closed session at 9 p.m.

Item 14 - Closed Session

(a) Government Code Section 549547; Public Employee Performance Evaluation
Title: General Manager

(b) Conference with Legal Counsel - Significant exposure to litigation pursuant to Gov't Code Section 54956.9(d) (2): 3 cases

(c) Conference with Legal Counsel - Potential litigation pursuant to Gov't Code section 54956.9(d) (3): 1 case

(d) Conference with Legal Counsel - Existing litigation pursuant to Gov't Code Section 54956.9(d) (1) Alameda County Flood Control and Water Conservation District, Zone 7 v. Pleasanton Gravel Co., Alameda County case no. HG14724177

(e) Conference with Labor Negotiators:
Agency Negotiator: G.F. Duerig
Employee Organizations: Alameda County Management Employees Association; Alameda County Building and Construction Trades Council, Local 342, AFL-CIO; International Federation of Professional and Technical Engineers, Local 21, AFL-CIO; Local 1021 of the Service Employees International Union, CTW; Unrepresented Management.

Item 15 - Open Session and Report Out of Closed Session

The Board came out of Closed Session at 9:09 p.m.

Two resolutions were unanimously approved in closed session:

Resolution 15-14	Amendment to Appendix A, Footnotes to Salary Schedule 9.4 Technology Reimbursement for unrepresented employees.
Resolution 15-15	Amendment to Appendix A, Footnotes to Salary Schedule 9.2 Technology Reimbursement for the Alameda County Management Employees Association (ACMEA).

Item 16 - Adjournment

The meeting was adjourned at 9:10 p.m.

MINUTES OF THE BOARD OF DIRECTORS
ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

SPECIAL BOARD MEETING

October 1, 2014

President Greci called the meeting to order at 5:20 p.m. The following were present:

DIRECTORS:	JOHN GRECI SARAH PALMER DICK QUIGLEY ANGELA RAMIREZ HOLMES BILL STEVENS
DIRECTORS ABSENT:	DIRECTORS FIGUERS, MCGRAIL
ZONE 7 STAFF:	JILL DUERIG, GENERAL MANAGER TAMARA BAPTISTA, FINANCE MANAGER JAVIA GREEN, STAFF ANALYST RHETT ALZONA, SENIOR ENGINEER, FACILITIES ENGINEERING JUDY RECTOR, BOARD SECRETARY
COUNSEL:	DAVID ALADJEM, DOWNEY BRAND

Item 1 - Call Meeting to Order

President Greci called the meeting to order at 5:20 p.m.

Item 2 - Pledge of Allegiance

President Greci led a salute to the flag.

Item 3 – Citizens Forum - none.

Director Stevens arrived at 5:25 p.m.

Item 4 - Draft FY 15/16 Capital Improvement Program

General Manager Duerig reminded the Board that they usually review the Capital Improvement Program (CIP) at the same time as the water rates. The CIP is now reviewed every other year but was delayed due to new financial software and the drought.

JaVia Green, Staff Analyst, told the Board that staff had met with the Retailers and the Finance Committee on the CIP methodology. The CIP provides a ten-year plan for the Water System and a five-year plan for Flood Protection. The CIP provides a baseline for Zone 7's budget so the first year of the CIP is used as a basis for the following year's budget. Ms. Green had a presentation which showed the Water System CIP Actual Expenses vs. CIP Planned Expenses. Ms. Green showed the Board before-and-after slides for several projects that have been completed under the CIP. Then Ms. Green and Rhett Alzona, Senior Engineer for Facilities Engineering, reviewed the CIP and related funding.

Ms. Green explained funding scenarios for Fund 120, including the possibility of debt financing, and Fund 130, including connection fees showing some rebound in growth. Without a ramp-up in connection fee revenue, there could be problems in FY 2018-19 so staff will closely monitor the cash flow. The Flood Protection CIP for five years is composed of two funds, Fund 200 and Fund 210.

Staff was looking to the Board for direction on projects, deferrals and debt financing and will finalize the draft CIP and bring it to the Board for possible adoption on October 15, 2014.

Director Ramirez Holmes clarified that the methodology came to the Finance Committee, but they did not see the project list and she questioned why this list didn't come to the committee. Ms. Duerig said there was a procedure for prioritizing this year that staff wanted to have vetted first. The direction sought for this meeting is how staff drafts and selects those projects and whether we are on track. This is a first reading and the CIP does not need to be adopted October 15th. If the Board would prefer to defer this, a CIP could be adopted at the time of the budget.

Director Ramirez Holmes asked Mr. Alzona about new projects and staffing needs. Mr. Alzona said it is going to vary but he estimated that 10-15 projects could be done by the current engineering staff or more if consultants were included. Staff tries to be aggressive to keep up with projects and get the most out of a year.

Director Palmer made a suggestion that the spreadsheet be sorted by year in order of implementation which will help in judging various different budget years. Director Quigley said that if the Board had a historical track back five or six years it might be meaningful, too, and would show how the board had been proactive previously.

Director Stevens said Zone 7 has always saved money for large projects like the Altamont Treatment Plant under a pay-as-you-go philosophy. Ms. Duerig agreed but said that the Finance Committee would also like staff to come back with a "white paper" on what debt financing means, advantages and disadvantages, and timing. Director Stevens said that the projects recommended are acceptable to him and he is comfortable finalizing the CIP at the next board meeting on October 15th.

Ms. Duerig said there are options: 1) if the Board is wants to bring forward the CIP with the water rates at the October 15th board meeting or 2) if the Board is comfortable bringing forward the projects, staff will put it together in a CIP that could be adopted October 15th. Decisions about debt financing are probably a couple of years off and the CIP is a plan plus no project goes forward without Board approval unless it is very small, so there are lots of "exit ramps" if the Board feels things are moving too quickly or the choice is not to do debt financing.

President Greci asked for public comments.

Dan McIntyre, City of Livermore, said Livermore supports the idea of debt financing and feels it is a way to equitably spread the cost of the infrastructure to all users over time. The Asset Management Program (AMP) includes a healthy allowance for system-wide improvements that the board adopted in 2011 and some of the projects that were accelerated this year to address the drought were already factored into the AMP, even though not originally identified by name, and there was an allowance provided by the AMP. Increasing the transfers over the next three years looks like double counting because Zone 7 has already collected money for unexpected projects which came up and then reimbursed the fund. The funds have already been collected for system-wide improvements and the AMP could fund projects through cash on hand and debt financing. There are 28,000 future connections so debt financing would insure that those future users participate and share in the cost of those proposed projects in the CIP budget. He recommends not super funding the AMP, stick to the plan from 2011, and fund the transfers as originally adopted.

Daniel Smith, City of Pleasanton, said Pleasanton also supports debt financing and there is a frustration on their part regarding the CIP program for the next 10 years. He knows the retailers want to have a partnership and they would like to meet with Zone 7 and take a look at the CIP projects and more back-up information on those projects.

John Archer, DSRSD, said his comments echo theirs in that they support debt financing. A presentation on the impact on water rates with debt financing and pay-as-you-go should be looked at by the board as they do have different impacts and there is a cost to borrowing money. DSRSD is concerned about the impact of all these projects over time. He would like to see a blended version of pay-as-you-go and debt financing.

President Greci said we are banking on new connection fees for money but they may not be what is estimated. He is concerned about where the water is going to come from to supply the connection fees if they are used. Zone 7's system is old, we have new government regulations for contaminants such as Chromium 6 which are non-discretionary costs so no choice but to spend the money and they are expensive. To meet reliability along with water quality, it is imperative that we spend money to meet those requirements. The word "defer" is critical in our management plan from now on and we should put off what we can. Maintenance is the key to reliability because our facilities are old and we need to go with new technologies but there is a price for it, and we don't have a choice when it comes to quality. The number one thing is to give our residents quality water. Where are we going to be with new State mandates for groundwater protection when our groundwater runs out and we are not getting water from the State? This could be catastrophic for us. He suggested closing the door on permits, getting more water, getting more storage and feeling confident in the needs for potential growth in this valley and take care of the people who are already here.

Director Ramirez Holmes wants time for retailers and staff to work together and make comments to help with the board's decisions. She thinks it should go to committee but more importantly is to have a solid discussion with retailers and not sure two weeks before the next board meeting allows for that.

Director Stevens asked if the CIP should be delayed until a special meeting in November.

Director Palmer said she hears the retailers concerns about funding and continuing to build up reserves, setting reserves lower or using debt financing, but it doesn't change the adoption of the plan and some projects should not be deferred as they have been in the past. She would like to see the CIP go forward but organized in terms of years so she can make a better judgement. She is in favor of going forward October 15th.

Ms. Duerig confirmed that the board wants staff to meet with retailers in the next two weeks and come back with the CIP on October 15th.

<u>Item 5 - Water Rates for 2015 & 2016</u>

Ms. Baptista said the 2015 and 2016 water rates were discussed at two Finance Committee meetings and staff met twice with retailers. Ms. Baptista explained the makeup of water rates with a slide presentation on water rate components: revenue, cost of service and reserves. Expenses are estimated to be $31.8 million for FY 14/15 and $32.6 million for FY 15/16 with AMP transfers for both years. Financial Consultant Sandra Sato reviewed the CIP and recommended a change to the reserve allocation methodology which sets both the operating reserve and the emergency reserve to the maximum reserve levels. The remaining balance of the fund is then allocated to the rate stabilization reserve. For FY 14/15, the Board approved 100% use of the drought contingency reserve so in all models that balance is zero for FY 16/17. The reason for Ms. Sato's recommendation is to get a higher credit rating for future debt financing because credit agencies like to see higher reserves.

Three calculations were presented to the Board. In all three calculations, graphs showed the impact of that calculation on the emergency reserve, drought contingency reserve, operating reserve and rate stabilization reserve. There was a brief presentation on advantages to maintaining reserves.

The next steps for the board are to provide direction to staff regarding considering the reserve allocation method and which water rate calculation to bring forward to the October 15th board meeting.

The board members were given a copy of a letter from Dublin San Ramon Services District and Director Palmer noted that one of the suggestions was to look at a pool of reserves as opposed to the individual reserves. She said that at the 3% calculation, Zone 7 still had some healthy reserves so she did not see the need to go to 7%.

Director Ramirez Holmes asked several questions and expressed concerns about reserves and the reserve policy. She suggested that the reserve policy may need to be revised and she is concerned that the policy has been bypassed. She also noted that the retailers suggest Zone 7 follow the AMP policy and last year the AMP was overfunded.

Director Stevens discussed his concerns regarding the drought continuing and if there is water, filling up reservoirs including groundwater and lakes. He does not have confidence that there will be water next year so he suggests planning for the worst-case scenario. He recommended the 7% increase for both years.

Ms. Duerig said that the ramp-up for the AMP increases by about $1 million each of these years (rule-of-thumb is that every $400,000 of increased expense is equivalent to a 1% increase). With the 3% for the CPI, the 1.5% for the increase set aside for the AMP ramp up and the 2.5%

increase cost for water, the 7%-7% option will keep Zone 7's reserves neutral. Staff is asking for direction from the board.

Director Palmer asked if, for example, there is a 3% increase, does that stop the board from doing a temporary drought surcharge to make it up? Ms. Duerig said it would have to be adopted in time to be in place by January 1 because of the way the contracts with the retailers are written. One of the recommendations the retailers made is that as we consider our Urban Water Management Plan update next year, we consider adding a drought surcharge stage. Director Ramirez Holmes said all three directors in the Finance Committee agreed they did not want an automatic trigger but agreed that it would be part of the Urban Water Management Plan. Director Palmer agreed with Director Ramirez Holmes but Ms. Duerig pointed out that the Urban Water Management Plan would likely not be adopted any sooner than December 2015 so it will not apply next year.

President Greci discussed the effect of unexpected expenses and preventative maintenance budgeting, and then asked for public comments on the water rates.

Dan McIntyre, City of Livermore, contributed his personal comments and said Zone 7 should adhere closely to existing policies without any major deviations and recommends that a new run of the model for Option 3 be done with changes: the AMP policy should be implemented as designed and approved in 2011 but in the absence of unusual circumstances such as the recession, the planned ramp-up of the AMP should continue as scheduled and, for that reason, he does not support Option 2, reducing the transfer to the AMP. He also recommended that the Board adhere closely to the reserve policies. He says the operating policy seems prudent and reasonable and no changes are needed. The drought contingency reserve and the rate stabilization reserves are related and serve to smooth out choppy cash flows. He suggested adding the two reserves together to meet the minimum reserve requirement for those two funds combined; add the two numbers from Option 3 together, see if they exceed the combined minimum numbers, and those funds are good. The sticking point is the emergency reserve which is mildly at variance with the board-adopted policy which says, "Zone 7 will strive to maintain a target balance equal to 2% of capital assets of the water enterprise system." The board does have discretion to vary this amount from 1% to 3%. Option 3 proposes to increase this reserve from 2% to 3% which drives some of the rate increase. He requested that the board adhere to the 2% figure. He encouraged the board to consider some of these ideas and re-run the Option 3 model to see what the numbers are, and he would support whatever number the calculations show.

Director Ramirez Holmes said she knows Darren Greenwood from the City of Livermore had concerns with the additional money given to AMP last year. She clarified that Mr. McIntyre is not in favor of the $3.3 million more put into AMP for 2014-15. Mr. McIntyre agreed that the AMP should be implemented as approved but without increasing the emergency reserve. Director Ramirez Holmes said that would be Option 2.

John Archer, DSRSD, summarized the detailed DSRSD letter and said DSRSD supports multi-year rate setting. Concerns about coming back each year might be avoided if a longer term than two years was implemented, perhaps five or six years. Discussions about the asset replacement fund could be included. DSRSD supports a rate increase with a drought surcharge as long as it has a sunset date at a specific time or occurrence. That could be used to have base rates stay as base rates and not inflated so maybe it would be an alternative; if the drought continues, that rate would stay in place and not be built into rates as the 7% might be. He encouraged the board to set their rates based on the established reserve policies. DSRSD also supports a CPI and maybe some type of a drought surcharge.

Dan Martin, City of Pleasanton, said that Pleasanton supports a policy based on an annual CPI increase. When there are projections beyond the CPI, that is when they hope to see an explanation of why that is necessary and currently they do not see that. There have been discussions about potential costs and the uncertainties for next year. The idea that rates need to be raised ahead of those uncertainties is not something that Pleasanton supports. Pleasanton cannot support an increase that is permanent with drivers that may be temporary. The sequence of events leading to the initiation of the AMP was based on the repair and replacement of existing facilities that have a fixed life span that have to be replaced preferably ahead of their critical failure point. All of the retailers were in agreement with Zone 7 on categorizing and determining the triggers and funding requirements but at the last minute the discussion changed from repair and replacement projects and turned to talking about completely discretionary system-wide improvements that were dumped into the AMP program at the last minute. All of the retailers went on record saying that this was not what they had been talking about, not agreed to, and the impact of throwing the system-wide improvements on top of repair and replacement had a dramatic impact on the AMP funding requirements.

Ms. Duerig said that discretionary costs include upgrades. A big driver with the difference was the ozone project which was seen as very expensive but because there was a pay-as-you-go philosophy, AMP transfers was the mechanism to save for it. In terms of water rates, what we adopted two years ago was based on the AMP ramp up. Zone 7's rates have not been adjusted regardless of the budget and our current proposal is only based on that approved ramp up. It doesn't recover reserves and there is no double counting. Each step of the ramp up, until you get to the last step, is not setting aside what the AMP and the system-wide improvement piece of it recommended so each year it has been underfunded instead of overfunded.

Director Stevens asked if the board was locked into two years so if they vote for 7%, is the second year locked in also at 7%? Ms. Duerig said the board is not locked into anything but could be if they don't take further action. It could be revisited next year or the board could decide to do just a one-year rate increase because of the drought. But all the retailers and staff agree that a multiple year rate adoption is preferable.

Director Palmer asked about a base plus a surcharge to be sunsetted after one or two years. Ms. Duerig replied that because staff is not recommending any depletion of reserves, staff is saying they feel that these costs are solid and part is due to the ramp up that has already been adopted. The CPI is 3%, another 2-1/2 % is because we are increasing a $1 million set aside each year which equals 5-1/2% that is a given because of the policies the board has adopted even before any discussion about changes in reserves. The speculative and debatable part is whether costs will increase next year, whether revenues will decrease, whether water will be available and how expensive it will be.

Director Stevens recommended going ahead and passing the 7% water rate for two years and revisiting the AMP and reserves later.

Kathy Narum, Pleasanton City Council, wanted to appeal to the board for moderation due to the drought. Pleasanton did their part to conserve water 25% citywide and constituents had compelling and undisputable reasons to conserve. If residents have good and reliable information, they will do the right thing. She does not feel there is enough information and the cities all have questions. Perhaps there is a justification for the 7% increase in the interest of keeping Zone 7 financially stable. She asked the board to step back, work with the retailers and city staff and make sure that they understand and that there is a justification and either come up with the surcharge that sunsets and can be explained to residents or do Option 2 tied to the CPI rather than an arbitrary 7%. They need the credibility to continue to get the constituents to conserve and to ask them to keep conserving and accept a 7% increase hurts that credibility.

Georgean Vonheeder-Leopold spoke on behalf of DSRSD and thought the retailers were more together on the recommendations but there are slight differences so she agrees that maybe we need to take a step back and look at the numbers. She said DSRSD can support the 3% and favors the multi-year. Perhaps Zone 7 needs to look at their issues with the reserve policy. DSRSD has had stable reserve policies for several years and they stick to them which is why they are in the financial shape they are in plus they were pay-as-you-go but when you have $50 million projects, you can't expect current residents to pay for them when they are going to last 50 years. She didn't expect to see a problem with the AMP and DSRSD is in favor of keeping it the way it is. DSRSD is in favor of looking at a surcharge that would sunset because you have to recover the extra costs because of the drought but it needs to sunset and cannot be rolled into the water rates, become permanent and compounded. In conclusion she also thinks there needs to be more conversations and information before making a decision and the recommendation from staff covers all of the contingencies.

President Greci summarized that there is a strong need for interaction with the retailers. Over the years he has seen an increase in the cooperative effort between everyone and it is a good working relationship that Zone 7 wants to continue to improve. He encouraged staff to continue that increased interaction with our retailers before making a recommendation for rates at the next board meeting.

Ms. Duerig said it sounds like Option 1 can be eliminated. Director Ramirez Holmes said bring back Options 2 and 3 especially since two directors were absent and not able to weigh in on the two options. This gives the retailers time to learn more about some of the things they suggested for information and number crunching and we may be able to make a more informed decision.

Director Palmer said a base for recurring or permanent costs (maybe 3%) with a surcharge on top that sunsets for drought-related factors is something that could be a third option to consider as reasonable and necessary to keep Zone 7 financially whole.

Director Ramirez Holmes wanted to make sure we are utilizing the reserve policy and the board is making the decision to exceed the 2%.

Item 6 - Preliminary Untreated Water Rate for 2015

Ms. Baptista said staff is recommending $130 per acre-foot for CY 2015 which is an 18% increase over CY 2014 and CY 2013. The untreated water rate is a pass-through of the cost of importing water, supplemental water purchases and untreated water administration. Ms. Baptista showed a graph with the untreated water rate history.

Staff's recommendation was to ask the board to provide direction to staff.

Director Ramirez Holmes asked why there was an 18% increase in cost? Ms. Baptista said staff looks at their water supply operations plan for 2015 and different water sources coming into the Zone 7 service area based on Semitropic and Cawelo recovery for untreated and treated water which influences the increase. Ms. Duerig added that the cost of Semitropic and Cawelo pump back water has increased because of the regulation regarding treatment for arsenic. Water cannot be pumped back into the canal without paying for the treatment for arsenic.

The direction from the board was to proceed with the recommendation for the 18% increase.

Item 7 - Verbal Reports - none.

The Board went into closed session at 8:10 p.m.

Item 8 - Closed Session

(a) Conference with Legal Counsel - Significant exposure to litigation pursuant to Gov't Code Section 54956.9(d) (2): 1 case

Item 9 - Open Session and Report Out of Closed Session

The Board came out of Closed Session at 8:24 p.m. and President Greci reported there were no reportable actions taken in closed session.

Item 10 - Adjournment

The meeting was adjourned at 8:25 p.m.

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: GROUNDWATER SECTION/FLOOD CONTROL
CONTACT: MATT KATEN/DIANA GAINES

AGENDA DATE: October 15, 2014 ITEM NO. **7a**

SUBJECT: Joint Funding Agreement with USGS for Annual Stream Gauge Operations and Maintenance

SUMMARY:

- For over 15 years, Zone 7 has been participating in a Joint Funding Agreement (JFA) with the U.S. Geological Survey (USGS) and Alameda County Water District for the USGS to operate and maintain two existing stream gauges (Arroyo Valle near Livermore /AVNL and Arroyo de la Laguna at Verona /ADLLV). Zone 7 also utilizes a third gauge monitored by the USGS (Arroyo Valle below Lang Canyon (AVBLC), but at no cost to Zone 7.
- Zone 7's share of the cost for the operation and maintenance (O&M) of the two existing gauges covered by the JFA was $28,425 for this current year (November 1, 2013 to October 31, 2014), and is estimated to be $28,650 for the upcoming year (November 1, 2014 to October 31, 2015).
- Staff is planning to install a new gauge on Alamo Canal, above the confluence with Arroyo Mocho, to provide peak flow and real-time water levels, which are essential elements for establishing an early warning flood detection system. Staff would like to have the USGS provide the O&M for this new gauge.
- Having USGS provide the O&M for the Alamo Canal gauge will allow the public and other agencies to have free internet access to the stream flow data in practically real-time.
- Adding the O&M of the new gauge to the USGS's scope would increase Zone 7's portion of the JFA by $22,800, making the total for the three gauges $51,450, which is over the current General Manager's authorization of $50,000 per year for this JFA (Resolution 11-4136).
- This item seeks Board approval for the General Manager to execute JFAs with the USGS for stream gauge O&M services for three gauges for this next year and subsequent years for a not to exceed amount of $70,000 per year.

FUNDING:
Funding is available from Fund 100-Water Enterprise (56%), Fund 200-Flood Protection Operations (26%) and Fund 210- Flood Control and Stormwater Drainage (18%) for the annual O&M of the three gauges.

RECOMMENDED ACTION:
Adopt the attached resolution authorizing the General Manager to negotiate and enter into JFAs with the USGS to provide O&M services for three stream gauges for the 2014-15 water year and subsequent years in amounts not-to-exceed $70,000 each year.

ATTACHMENTS:

- Internal Memo
- Zone 7 Board Resolution
- Joint Funding Agreement with USGS for Water Resources Investigations

Interoffice Memo

Date:	October 15, 2014
To:	Jill Duerig, General Manager
From:	Matt Katen, Principal Geologist, Groundwater Section; Diana Gaines, Senior Engineer, Flood Control Section
Subject:	Joint Funding Agreement with USGS for Annual Stream Gauge Operations and Maintenance

The following provides additional background and discussion of the above-referenced agenda item.

BACKGROUND:

Zone 7 tracks surface water flow at thirteen (13) stream gauging stations throughout the watershed. Three of them are owned and operated by the U.S. Geological Survey (USGS). The data from these stations is used in Zone 7's stream recharge, salt loading, quarry monitoring, fisheries, water rights and flood protection programs. Since 1998, Zone 7 has been participating in a USGS sponsored cooperative water resources program, along with Alameda County Water District (ACWD), to share the cost of the operation and maintenance (O&M) for the Arroyo Valle near Livermore (AVNL) stream gauge. In 2003, the gauge at Arroyo de la Laguna at Verona (ADLLV) was added to the agreement following budget cuts at the USGS. The third USGS station, Arroyo Valle Below Lang Canyon (AVBLC) is still operated and maintained by the USGS without cost to Zone 7 or ACWD.

For AVNL and ADLLV, USGS personnel have been providing O&M, data management, quality assurance/quality control (QA/QC), and online reporting, while ACWD, USGS and Zone 7 share the expense for the effort. The contractual instrument for the cost sharing arrangement has been a 'Joint Funding Agreement' (JFA) provided by the USGS (U.S. Dept. of Interior). Over the term of the agreement, Zone 7's share of the expense adjusts to reflect USGS's labor cost and expense increases.

In 2008, the Zone 7 Board adopted Resolution 08-3125, which authorized the General Manager to enter into partnering and/or joint funding agreements with other public agencies wherein Zone 7's level of participation is less than $25,000 annually per agreement. In 2011, the Zone 7 Board adopted Resolution 11-4136 authorizing a not-to-exceed cost of $50,000 per year for continued partnering and/or joint funding agreement with the USGS, to provide O&M, data management, QA/QC, and on-line reporting for AVNL and ADLL.

DISCUSSSON:

Now, staff is seeking approval to add the O&M cost for a third gauging station (Alamo Canal Pleasanton) to the USGS's scope of work covered by the JFA. The addition cost of this new third location would raise the cost of Zone 7's portion of the JFA to $51,450 for 2014-15, but would likely remain under $70,000 for many subsequent years based on our experience with previous cost adjustments made by the USGS in our prior JFAs.

The new Alamo Canal Pleasanton gauge is one of two new gauges currently planned for installation in Pleasanton this year. The other will be installed, operated and maintained by Zone 7 staff on Chabot Canal. Both are needed to quantify and monitor the runoff from western Dublin and Dougherty Valley during rainfall events. The runoff data from these gauges will help staff to calibrate and validate future hydrologic and hydraulic modeling efforts. The new gauge on Alamo Canal will also provide peak flow data and real-time water levels, which are essential elements for establishing an early warning flood detection system.

The USGS is much better equipped for measuring high flows on Alamo Canal and maintaining a rating table for the gauge. High flows can reach as high as 9,000 cfs, and there are no ideal bridges over the canal near this location from which staff can safely make stream flow measurements. The USGS, on the other hand has a cable guided floating acoustic Doppler device that they have experience employing to make the measurements. They will also post the gauge data in nearly real-time on their National Water Information System website for free public and agency access. Staff recommends that the Zone 7 Board of Directors authorize the General Manager to negotiate and execute the proposed JFA for stream gauge O&M for 2014-15 and subsequent years for amounts not-to-exceed $70,000 per year.

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Joint Funding Agreement with USGS for
Annual Stream Gauge Operations and Maintenance

WHEREAS, stream flow, temperature and certain water quality data from three U.S. Geological Survey (USGS)-owned and operated stream gauges located in Livermore Valley arroyos are necessary inputs for various ongoing Zone 7 programs and studies; and

WHEREAS, Zone 7 has participated in annual Joint Funding Agreements (JFA) with the USGS for the cost–sharing of certain stream gauge operation and maintenance for at least 15 years; and

WHEREAS, Zone 7 staff has determined the need for a new stream gauge along Alamo Canal to better define flows from the northern watershed, and recommends USGS to provide the necessary operations and maintenance for the new gauge; and

WHEREAS, adding the additional operation and maintenance services for the additional gauge to the JFA will increase Zone 7's cost-share; and

WHEREAS, Zone 7 will likely continue to need these services provided by the USGS for the stream gaging stations beyond the 2014-15 contract period and the annual cost would likely increase but remain under $70,000 for many subsequent years based on our experience with previous cost adjustments made by the USGS on our prior JFAs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District does hereby authorize the General Manager to negotiate and enter into annual joint funding agreements with the USGS for a not-to-exceed amount of $70,000 per year, for water resources investigations involving operation and maintenance and data management for stream gauges located in the Alameda Creek Watershed.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on October 15, 2014

By____
President, Board of Directors

United States Department of the Interior

U.S. GEOLOGICAL SURVEY
California Water Science Center
6000 J Street, Placer Hall
California State University
Sacramento, California 95819-6129
Phone: (916) 278-3000 Fax: (916) 278-3070
http://water.wr.usgs.gov

September 29, 2014

Mr. Matt Katen
Alameda County Zone 7 Water Agency
Attn: Accounting
100 North Canyons Parkway
Livermore, California 94551

Dear Mr. Katen:

This letter confirms discussions between our respective staffs, concerning a cooperative water resources program between the Alameda County Zone 7 Water Agency (Zone 7) and the U.S. Geological Survey (USGS) for the period November 1, 2014 to October 31, 2015.

The proposed program and associated costs are as follows:

Station number and name	Zone 7 Funds	Alameda Co. WD Funds	USGS Funds	Total Funds
11176500 Arroyo Valle near Livermore	$11,400	$11,400	$ -0-	$22,800
Continuous water quality monitors				
Temperature, continuous				
(in conjunction with full O&M)	4,200	-0-	-0-	4,200
11176900 Arroyo de la Laguna at Verona	6,850	6,850	6,900	20,600
Continuous water quality monitors				
Temperature and conductance, continuous				
(in conjunction with full O&M)	4,975	4,975	-0-	9,950
pH	1,225	1,225	-0-	2,450
NEW Alamo Canal near Wastewater Treatment Plant, Pleasanton, CA	22,800	-0-	-0-	22,800
TOTAL	**$51,450**	**$24,450**	**$6,900**	**$82,800**

Total cost of the proposed program is \$82,800. Zone 7 is responsible for \$51,450 and the Alameda County Water District (County) is responsible for \$24,450. The cost for operation and mainenance of these gaging stations as well as the continuous water quality monitors for the gaging station Arroyo de la Laguna at Verona (11176900) will be shared equally between Zone 7 and the County. The cost for the temperature monitor for the gaging station Arroyo Valle near Livermore (11176500) will be covered by Zone 7. Subject to the availability of Federal matching funds, the USGS will provide \$6,900 to be shared equally between Zone 7 and County in the amount of \$3,450 each for the station Arroyo de la Laguna at Verona (11176900).

Enclosed are two originals of Joint Funding Agreement (JFA) 15WSCA13700, signed by our agency, for your approval. If you are in agreement with this proposed program, please return one fully executed JFA to our office. Work performed with funds from this agreement will be conducted on a fixed-price basis. Billing for this agreement will be rendered quarterly.

The USGS is required to have an agreement in place prior to any work being performed on a project. We request that the JFAs be returned prior to November 1, 2014. If they are not received by November, we will be required to suspend operations until an agreement is received.

If you have any questions concerning this program, please contact Armando Robledo, in our Sacramento Field Office, at (916) 381-0207 or Anthony Guerriero, in our Santa Cruz Field Office at (831) 460-7494. If you have any administrative questions, please contact Tammy Seubert, in our Sacramento Office, at (916) 278-3040.

Sincerely,

Debra S Curry, Acting

Eric G. Reichard
Director, USGS California Water Science Center

Enclosures

cc: Armando Robledo, USGS CAWSC

Anthony Guerriero, USGS CAWSC

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resources Investigations

Agreement #: 15WSCA13700
Customer #: 600000948
Project #: ZG009J5
TIN #: 94-6000501
USGS DUNS #: 1761-38857

Fixed Cost Agreement Yes [X] No [ ]

THIS AGREEMENT is entered into as of the 1st day of November, 2014, by the U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the ALAMEDA COUNTY ZONE 7 WATER AGENCY, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation for cooperative water resources investigations in the Alameda County Zone 7 Water Agency area, herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of $0.00.

(a)	$3,450.00	by the party of the first part during the period November 1, 2014 to October 31, 2015
(b)	$51,450.00	by the party of the second part during the period November 1, 2014 to October 31, 2015

(c) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

(d) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request; be furnished by the party of the first part; at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties.

9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered **quarterly**. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983.).

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR
Water Resources Investigations

Agreement #: 15WSCA13700
Customer #: 600000948
Project #: ZG009J5
TIN #: 94-6000501
USGS DUNS #: 1761-38857

	USGS Technical Point of Contact			Customer Technical Point of Contact
Name:	Armando Robledo or	Anthony Guerriero	Name:	G.F. Duerig
	Sacramento Field Office	Santa Cruz Field Office		General Manager
Address:	8550 23rd Avenue	400 Natural Bridges Drive	Address:	100 North Canyons Parkway
	Sacramento, CA 95826	Santa Cruz, CA 95060		Livermore, CA 94551
Telephone:	(916) 381-0207	(831) 460-7494	Telephone:	
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	USGS **Administrative** Point of Contact		Customer Billing Point of Contact
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Email:	tseubert@usgs.gov	Email:	mkaten@zone7water.com

U.S. Geological Survey
United States
Department of the Interior

Signature

By Debra S Curry, Acting Date: 9/29/2014
Name: Eric G. Reichard
Title: Director, USGS California Water Science Center

ALAMEDA COUNTY ZONE 7 WATER AGENCY

Signatures

By________________________ Date: __________
Name:
Title:

By________________________ Date: __________
Name:
Title:

By________________________ Date: __________
Name:
Title:

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING DIVISION: Office of the General Manager
CONTACT PERSON: Judy Rector

AGENDA DATE: October 15, 2014 ITEM NO. **7b**

SUBJECT: Amend Contracts for Records Management Software Equipment and Support Services

SUMMARY:

- On August 20, 2014, the Board of Directors authorized the General Manager to negotiate and execute two contracts as part of the Records Retention/Management Policy Framework. As the supplier of Laserfiche software and support, Incrementum will provide a Fujitsu scanner and a three-year contract for cloud-based hosting in order to implement the software. The total dollar amount quoted in the agenda item ($116,593) was incorrect, as it did not include the price for the Fujitsu scanner ($5,000). The proposed amended total would be $133,752, which includes the purchase of the scanner plus a 10% contingency for unanticipated expenses.

- In addition, the same agenda item included a contract with Kaizen InfoSource for professional services to assist with implementation, training and mapping for Laserfiche for a not-to-exceed total of $67,500. Anticipated expenses of $2,500 were not included. The proposed amended total would be $77,000, which includes the unintentionally omitted $2500 plus a 10% contingency for unanticipated expenses.

- Staff requests approval for an increase of $12,159 to the Incrementum contract for the $5,000 purchase of the scanner plus a 10% contingency for an amended not-to-exceed total of $133,752. In addition, staff requests approval for an increase of $7,000 to the Kaizen InfoSource contract amount to cover $2,500 in anticipated expenses plus a 10% contingency for an amended not-to-exceed total of $77,000.

FUNDING:
Funding is budgeted and available from Fund 100 (90%) and Fund 200 (10%).

RECOMMENDED ACTION:
Adopt resolution authorizing the General Manager to 1) amend the Records Information Management contract with Incrementum to include an additional $17,159 resulting in a new, not-to-exceed total of $133,752; 2) and amend the Kaizen InfoSource contract to include an additional $9,500 resulting in a new, not-to-exceed total of $77,000.

ATTACHMENTS:
Interoffice Memo
Resolution

Interoffice Memo

Date: October 10, 2014
To: Jill Duerig, General Manager
From: Judy Rector, Executive Assistant
Subject: Amend Contracts for Records Management Software Equipment and Support Services

The following provides additional background and discussion on the above-referenced agenda item.

BACKGROUND AND DISCUSSION:

In August 2014, the Zone 7 Board of Directors approved two contracts as part of the Records Information Management (RIM) plan and Retention/Management Policy Framework to purchase Laserfiche software for installation and support along with the purchase of a Fujitsu scanner, Scan Care and a cloud-based three-year hosting contract for a total of $116,593. The $5,000 cost of the Fujitsu scanner was inadvertently left off the total by staff. Upon review, staff is also recommending the addition of a 10% contingency ($12,159). This would result in a contract increase of $17,159 and the correct not-to-exceed total for the contract is $133,752.

The second contract with Kaizen InfoSource for assistance with the implementation, training and mapping of Laserfiche inadvertently omitted $2,500 for anticipated expenses noted at the bottom of the Scope of Work but not included in the total. Staff is also recommending the addition of a 10% contingency to this contract. Adding the $2,500 plus a 10% contingency ($7,000) results in a proposed increase of $9,500, and a new, not-to-exceed total of $77,000.

The additional cost for these two contract amendments is within the budget and available in Funds 100 and 200.

ZONE 7

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Amending Contracts for Records Management Software Equipment and Support Services

WHEREAS, Zone 7 Water Agency needs a document management software system as part of the Records Retention/Management Policy Framework approved by the Board of Directors in March 2012; and

WHEREAS, part of the objective of the Records Retention/Management Policy Framework is to properly govern records and information assets and properly retain and manage records and information in compliance with regulations through its Records Retention Schedule; and

WHEREAS, this document management software (Laserfiche) allows for the continuation of the goals and objectives of the framework for the Records Retention/ Management Policy.

NOW THEREFORE BE IT RESOLVED that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District does hereby authorize the General Manager to 1) negotiate and execute an amendment to the Records Information Management (RIM) contract with Incrementum to add $12,159 for a new, not-to-exceed total amount of $133,752; and 2) negotiate and execute an amendment to the Kaizen InfoSource contract to add $7,000 for a new, not-to-exceed total amount of $77,000.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on October 15, 2014.

By________________________________
President, Board of Directors

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: Flood Control
CONTACT: Jeff Tang/Jarnail Chahal

AGENDA DATE: October 15, 2014 ITEM NO. **7c**

SUBJECT: Resolution Proclaiming the Week of October 20-25, 2014 to be California Flood Preparedness Week

SUMMARY:

- Zone 7 Water Agency is a participating member of the California Flood Preparedness Program, a statewide effort to educate the public about the dangers of flooding, how to prepare their homes and families for a flood, and plan for recovery.
- The third annual California Flood Preparedness Week (2014) will be held during the week of October 20-25.
- The theme for California Flood Preparedness Week 2014 once again is "Be Aware, Be Prepared, and Take Action!"
- Joining other sponsors like California Department of Water Resources, Federal Emergency Management Agency, US Army Corps of Engineers, NOAA National Weather Service, County of Sacramento, and FloodSAFE California, Zone 7 Water Agency expresses support for increased public awareness of flood threats, and encourages all Zone 7 residents to take action to know about flood threats and prepare appropriately.
- Residents and the general public can learn more about Flood Preparedness at the California Department of Water Resources' shortened link: http://bit.ly/cafloodprep

FUNDING:

There is no funding impact associated with this action.

RECOMMENDED ACTION:

Adopt a Resolution proclaiming the week of October 20-25, 2014 to be California Flood Preparedness Week.

ATTACHMENTS:

1. Resolution proclaiming the week of October 20-25, 2014 to be California Flood Preparedness Week
2. Webpage for 2014 California Flood Preparedness Week

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Proclaiming the Week of October 20-25, 2014 to be California Flood Preparedness Week

WHEREAS, Zone 7 Water Agency recognizes the significant public safety threat flooding poses to the population, assets and economy of our community; and

WHEREAS, in the last twenty plus years, every one of California's 58 counties has experienced a federally-declared flood disaster resulting in the loss of lives, homes, precious possessions and costing billions of dollars; and

WHEREAS, Zone 7 residents have endured multiple numbers of flood events including the historic floods of 1955 and 1958. In recent history, Zone 7 applied for and received federal and state financial assistance for repair of damage from flood events during 1995, 1998 and 2005; and

WHEREAS, statewide over 7 million people and at least $600 billion in assets (buildings, infrastructures and crops) are exposed to the hazard of flooding; and

WHEREAS, while California's weather is prone to extreme events such as the current drought, most droughts have ended in a major flood; and

WHEREAS, during California Flood Preparedness Week, local, state and federal agencies across the state work together to inform the public about the dangers of flooding, how to prepare their homes and families for a flood, and plan for recovery; and

WHEREAS, California Flood Preparedness Week 2014 will be held statewide during the week of October 20-25; and

WHEREAS, the theme for California Flood Preparedness Week 2014 is once again "Be Aware, Be Prepared, and Take Action!"

NOW THEREFORE, BE IT RESOLVED, that Zone 7 Water Agency will participate in California Flood Preparedness Week 2014, express support for increased public awareness of flood threats, and encourage all Zone 7 residents to be aware of flood risks, be prepared for potential flooding, and take appropriate action in times of flooding.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on October 15, 2014.

By ________________________________
President, Board of Directors

2014 California Flood Preparedness Week

October 20 - 25, 2014

Be Aware, Be Prepared, and Take Action!

FEMA | US Army Corps of Engineers | floodSAFE CALIFORNIA

Welcome to the Flood Preparedness Website!

Where floodwaters flow - check it out!

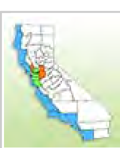
Floodplains are generally flat areas adjacent to watercourses or the sea where water flows in time of flood or would flow, if not for the presence of flood protection. So, even if a community has flood protection provided by levees or sea walls, that community is still in a floodplain – it is just better protected than it would be without levees and sea walls because while levees and sea walls reduce the risk of flooding, they do not completely eliminate the risk or consequences of flooding.

However, floodplains are not always flat. They can also be sloped and curved as is the case with alluvial fans.

Because floodplains vary so widely in size, shape, and potential depth of flooding, probably the best way to think of floodplains is that they are any land area that is subject to inundation by flood waters from any source. And, this is where things can get a bit tricky: we can't always see our potential flooding sources because of distance or other reasons, or we don't think of small creeks or streams producing extreme flooding.

Due to California's diverse geography, we have all three major types of floodplains: alluvial fan, coastal, and riverine as well as other, less common, types of floodplains.

Alluvial Fan Floodplains are areas on alluvial fans that are subject to flooding. Flooding on alluvial fans can be comprised of water, water that is laden with debris, and water that carries so much debris it is called "debris flow" flooding. These floodplains vary in size. Alluvial fans experience at least three different types of flooding, and flooding on alluvial fans can impact land and floodplains adjacent to the fan. For more information about alluvial fan floodplains, click ***here***



Coastal Floodplains are generally flat areas bordering the ocean where water flows during a tsunami or tidal storm surge or would flow if not for the presence of flood defenses like sea walls. These floodplains vary in size. Coastal floodplains experience at least two different types of flooding, and flooding on coastal floodplains can impact land and other floodplains adjacent to coastal floodplains. For more information about coastal floodplains, click ***here***

Map is representational only and does not include all floodplains in California. (Source: California Department of Water Resources, 2013)

Riverine Floodplains are generally flat areas bordering rivers and streams where water flows in time of flood or would flow if not for the presence of flood defenses like levees. These floodplains can be quite narrow in canyons and up to several miles wide in valleys. Like alluvial fan and coastal floodplains, riverine floodplains experience different types of flooding, and flooding on riverine floodplains can impact land adjacent to the floodplain. For more information about riverine floodplains, click ***here***

Bottom line: living in floodplains involves both risk and consequences.

So, BE AWARE, BE PREPARED, and TAKE ACTION!

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: ADMINISTRATIVE SERVICES
CONTACT PERSON: TOM PICO

AGENDA DATE: October 15, 2014 ITEM NO. **7d**

SUBJECT: Personnel Action: Buyer I/II Position

SUMMARY:

- Zone 7 continues to assess the staffing needs of the Agency as we maintain a lean organizational model aligned with our goals.
- The agency would benefit by adding one Buyer I/II position to existing staff.
- This position will allow the General Manager flexibility in cross-training, optimizing efficiency and succession planning within the Buyer series that is central to our purchasing program.
- There is no change to the existing salary schedule.

FUNDING:

We are requesting the authorization for one unfunded position. There is no additional cost.

RECOMMENDED ACTION:

Staff recommends that the Board adopt the attached Resolution to approve the addition of one unfunded position in an existing classification at the existing salary schedule.

ATTACHMENT:

Zone 7 Board Resolution

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

BE IT RESOLVED that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District does hereby approve the following personnel action:

Approve one unfunded position of Buyer I/II, Zone 7

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on October 15, 2014.

By: ___________________________________
President, Board of Directors

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: ADMINISTRATIVE SERVICES
CONTACT: GINGER STATON

AGENDA DATE: October 15, 2014 ITEM NO. **8a**

SUBJECT: August Employee of the Month Recognition

SUMMARY:

The Employee Recognition Program Nomination Committee met in September and selected the Employee of the Month for August 2014 according to the established Program Guidelines. The individual chosen out of the submitted nominations is then recommended to Management for approval and there is a subsequent announcement of the selection to all Agency employees.

Allan Dahlquist, Water Facilities Supervisor, has been chosen from among those nominated as the August 2014 Employee of the Month. Allan works in Operations at the Patterson Pass Water Treatment Plant.

Allan began his career with Zone 7 over 21 years ago as a Water Plant Operator I and was quickly promoted to the II and III level. In April 2012, Allan was promoted to Water Facilities Supervisor and his knowledge and expertise of the Zone 7 systems has been a great benefit to the agency.

As noted in his recommendation, Allan is a positive contributor to Zone 7's culture and success. He is dependable and has a high level of integrity, showing his care about the agency and the work we do. Allan works extremely hard at his job and has been helpful in providing guidance to many employees over the years. He ensures that his professional relationships are characterized by honesty and transparency. Allan consistently strives to make Zone 7 better through both processes and interactions. It was noted that Allan is held in high regard and can be depended upon to get the job done.

The committee seconded the recommendation and recognized Allan as a valuable employee and asset to Zone 7, with management approving the selection.

RECOMMENDED ACTION:

It is recommended that the Zone 7 Board of Directors recognize and congratulate Allan Dahlquist as August 2014 Employee of the Month.

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING DIVISION: ADMINISTRATIVE SERVICES
CONTACT PERSON: TOM HUGHES/JAVIA GREEN

AGENDA DATE: October 15, 2014 ITEM NO. **9**

SUBJECT: Draft FY 15/16 Capital Improvement Program
- Ten-Year Water System Plan
- Five-Year Flood Protection Plan

SUMMARY:

- As part of Zone 7's capital planning and budget processes, staff prepared the Draft FY 15/16 Capital Improvement Program (CIP). A prioritization committee representing all levels of Engineering, Finance, and Integrated Planning staff was formed. The prioritization committee's responsibility was to prioritize the list of projects to be presented within the CIP document to the General Manager, Retailers, and Zone 7 Board of Directors based on resources, available funding, and priority. The proposed projects in the first two years of the CIP will serve as the basis for preparing the FY 15/16 and FY 16/17 capital budgets.

- The prioritization committee outlined a CIP Development Methodology to create various portfolios of projects designed to meet Water System goals under various operating conditions. Staff met with the Retailers on September 4, 2014 to discuss this methodology and proposed approach to project prioritization. On September 8, 2014, staff gave a presentation to the Finance Committee describing this methodology.

- The list of projects resulting from this project prioritization methodology was shared with the Retailers at a meeting on September 25th. A presentation on the proposed capital projects and projected cash flow was given to the Zone 7 Board on October 1, 2014. The Board directed staff to bring the CIP forward for adoption at its October 15, 2014 meeting. Staff met with the Retailers on October 9, 2014 to further discuss the proposed CIP.

- Staff has prepared a Draft FY 15/16 CIP Executive Summary highlighting the key issues and challenges driving the CIP and the projects identifies to address them. A presentation summarizing the draft CIP will be provided. Staff recommends adopting the attached resolution adopting the Draft FY 15/16 CIP.

RECOMMENDED ACTION:
Adopt the attached resolution.

ATTACHMENTS:
Resolution
Draft FY 15/16 CIP Executive Summary

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Zone 7 Fiscal Year 15/16 Capital Improvement Program

Ten-Year Water System Plan and Five-Year Flood Protection Plan

BE IT RESOLVED that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District does hereby adopt the Fiscal Year 15/16 Capital Improvement Program.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District on October 15, 2014.

By: ______________________________________
President, Board of Directors

FY 15/16 CAPITAL IMPROVEMENT PROGRAM EXECUTIVE SUMMARY

Background

On a biennial basis, Zone 7 Water Agency (Zone 7) prepares a Capital Improvement Program (CIP) document which outlines the plans for capital projects and programs needed to carry out the goals and policy objectives of the agency. The CIP incorporates the projects, costs, schedules, and priorities for the next five and ten years starting with FY 15/16, for the Flood Protection and Water Systems, respectively.

For the Ten-Year Water System CIP period (FY 15/16 through FY 24/25), a number of key issues drove the project development. These include source water quality challenges that can reduce the production capacity of the surface water treatment plants, poor performance and obsolescence of the Patterson Pass Ultrafiltration Plant membranes, and unexpected well pump failures. Together, these issues have undermined Zone 7's ability to meet peak demands in the near- and long-term and therefore require modification of previously identified projects and the addition of new projects. Newly-promulgated regulations, particularly the new Maximum Contaminant Level (MCL) for Chromium-6, have also required the addition of new projects. Finally, the 2014 Drought State of Emergency—and the prospect of continuing drought conditions—have necessitated new projects to improve system reliability.

Purpose

This Executive Summary provides an overview of the proposed Water and Flood Protection capital plan, key projects and the financial condition of the various capital funds. A list of all proposed projects for both systems is attached at the end of each section.

Systems and Sources of Funds

The CIP plans for two Systems (Water System and Flood Protection) and is funded by four sources of funds:

- Water System
    - Renewal/Replacement – Fund 120 – Indirectly from Water Rates (see table ES-7)
    - System-Wide Improvements – Fund 120 – Indirectly from Water Rates (see table ES-8)
    - Expansion – Fund 130 – Connection Fees (see table ES-9)
- Flood Protection
    - General Flood Protection – Fund 200 – Property Taxes (see tables ES-12 and ES-13)
    - Flood Protection and Stormwater Drainage – Fund 210 – Development Impact Fees (see table ES-14)

Water System CIP Overview

For the Ten-Year Water System CIP period (FY 15/16 through FY 24/25), ninety-four Water System projects have been identified totaling $546 million ($392M in Expansion, $67M Renewal/Replacement, $87M in Improvements). Projects are categorized into the following eight program areas shown in Table ES-1 below.

- Buildings & Grounds
- Groundwater Basin Management
- Program Management
- Regulatory Compliance
- Transmission and Distribution
- Water Supply and Conveyance
- Water Treatment Facilities
- Wells

Table ES-1 Water System CIP Breakdown by Program ($ Millions)

Program / Fiscal Year	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	Total
Buildings & Grounds	1.93	1.96	1.99	2.02	0.68	0.00	0.00	0.00	0.00	0.00	8.59
Groundwater Basin Management	0.11	0.00	0.15	0.00	0.16	0.00	0.17	0.00	0.19	0.20	0.98
Program Management	0.38	0.11	0.16	0.11	0.17	0.42	0.19	0.13	0.20	0.14	2.01
Regulatory Compliance Monitoring	0.12	0.13	0.12	0.13	0.14	0.15	0.15	0.16	0.17	0.17	1.44
Transmission & Distribution	5.29	0.00	0.06	1.51	6.25	0.00	1.08	0.05	0.92	2.93	18.09
Water Supply & Conveyance	23.97	22.58	24.94	32.31	53.52	45.08	48.27	49.44	21.83	21.97	343.93
Water Treatment Facilities	10.11	22.14	28.06	6.53	6.82	23.98	4.29	9.06	11.32	7.34	129.65
Wells	3.20	2.01	8.60	1.53	11.79	0.94	0.22	0.00	0.00	13.00	41.29
Total	**45.12**	**48.92**	**64.09**	**44.14**	**79.54**	**70.57**	**54.38**	**58.84**	**34.64**	**45.74**	**545.98**

Table ES-2 presents the appropriations for the Ten-Year Water System CIP by Strategy/Fund.

Table ES-2 Water System CIP Fund Breakdown

Strategy	Ten-Year Total ($ Millions)	Percentage
Expansion	$392	72%
Renewal/Replacement	$67	12%
System-Wide Improvements	$87	16%
Total	**$546**	**100%**

Recent Challenges and Issues Driving the Water System CIP

Meeting Peak Demands

With continuing drought conditions resulting in poor source water quality, Zone 7's production capacity was reduced, requiring a re-evaluation of Zone 7's ability to meet peak demands in the near- and long –term, especially in similar water quality conditions. Preliminary analysis completed by staff indicated that the primary causes for reduced production capacity are: 1) variations/degradation of source water quality, 2) poor-performing and soon-to-be obsolete membranes, and 3) unexpected well pump failures. The staff analysis recommends a number of studies, operational improvements, and capital projects to meet current and future peak day demands. These recommendations have been incorporated in this CIP. Key recommended projects, which have been modified or added to the CIP, include:

- ***Ozonation at DVWTP and PPWTP*** – The addition of ozone facilities was included in previous CIPs with the primary goal of improving delivered water quality. Recent staff analysis of production needs identified ozonation as the best technical option at this time for bolstering the DVWTP's and PPWTP's ability to handle source water quality variations while maintaining high production rates. For planning purposes, staff therefore recommends installing ozone treatment at DVWTP by 2018—five years earlier than in the previously planned date of 2023—due to the urgency of restoring capacity at DVWTP to meet near-term peak demands. This will also have the significant added benefit of improving taste and odor of delivered water sooner than anticipated, and improving DVWTP's ability to meet current and future regulations for trihalomethanes (THMs), haloacetic acids (HAAs), and contaminants of emerging concern (CECs). Staff recommends deferring PPWTP ozonation to 2028 – the same year as the potential expansion at PPWTP, so the two projects can be combined. PPWTP has been able to handle source water quality challenges better than DVWTP, perhaps due to the Patterson Pass raw water reservoir's buffering capacity.

  Zone 7 recently hired a consultant to further evaluate filter performance at both treatment plants and develop potential treatment alternatives for improving production capacity. In particular, the addition of carbon dioxide has the potential to significantly improve production capacity. While additional plant-scale testing is planned, installation of permanent carbon dioxide facilities at both plants has been included in the CIP.

For DVWTP, the plan is to complete the facility by 2016; if carbon dioxide by itself successfully restores production capacity, the installation of full ozonation (which requires carbon dioxide addition) at DVWTP may not be as urgent and could be deferred past 2018.

The asset management program (AMP) included funding for ozonation at both plants assuming an in-service date of 2023. The annual AMP contribution assumes that a portion of the funding would be set aside to build up reserves to fund the project with cash. With ozonation at DVWTP accelerated to an in-service year of 2018, there is less time to build up reserves to fund the project with cash. Assuming ozonation proceeds at the schedule identified in this CIP, debt financing is a potential strategy for addressing this cash deficit. This funding example is further discussed in the Funding Analysis section.

- ***PPWTP Expansion/New Media Filters*** – This project was included in the FY 12/13 CIP with a similar timeline. With continuing problems experienced with the membranes at the Patterson Pass Ultrafiltration Plant, it has become clear that replacement of the membranes with conventional media filters is the most logical solution. In addition to poor performance of the existing membranes, replacement will also become challenging as they have ceased to be produced by the manufacturer. This project would not only replace the capacity of the existing membrane plant at 8 MGD, but also provide the opportunity to expand capacity at PPWTP by an additional 4 MGD, helping to meet peak demands reliably.

- ***Well Rehabilitation*** – To improve the reliable production capacity of the wells—which are critical for meeting peak day demands and drought demands—Zone 7 undertook several well rehabilitation projects in 2014 to address unexpected well pump failures. For example, the reduced capacity of Mocho Well 4 was found to result from a hole in the pump bowl. In this CIP, the inspection and rehabilitation of the remaining wells (e.g., Hopyard Well No. 6) have been included.

Chromium 6 Treatment

The State of California adopted a new maximum contaminant level (MCL) of 10 μg/L for hexavalent chromium (or chromium-6) in drinking water which became effective on July 1, 2014. Zone 7 has a Water Quality Policy goal for potable water delivered to the M&I Contractors' turnouts be of a quality that contains no greater than 80% of primary MCLs. Therefore, Zone 7's delivered water quality target is 8 μg/L for chromium-6. Based upon current available data, several wells do not meet this target and are may slightly exceed or are near the MCL. These wells are Stoneridge and Chain of Lakes (COL) 1, 2, and 5. The Mocho and Hopyard wells are currently below the target and are not expected to require treatment. Zone 7 currently plans to meet the new MCL and its water quality target via blending with surface water and/or groundwater with lower chromium-6 concentrations. A new booster pump station is also being planned for FY15/16 to help improve blending capability. In case blending is not sufficient for meeting the MCL or the water quality target, on-site treatment would be needed. Staff has developed capital and O&M cost estimates for the chromium-6 treatment facilities for Stoneridge and COL wells. The estimated capital costs are ~$5M for the Stoneridge Well and ~$11M for the COL wells in current dollars. Since the near-term plan to meet the new MCL is via blending and/or utilizing leased chromium-6 treatment equipment if needed, the permanent treatment facilities have been scheduled for FY 20/21 to allow the treatment technologies to mature.

Drought Response

On January 17, 2014, Governor Jerry Brown declared a State of Emergency in California due to the current drought conditions and asked all citizens to cut back water use by 20%. On January 29, 2014 at a special meeting of the Zone 7 Board, a local Drought Emergency was declared and a Drought Emergency Response Plan was accepted. The Zone 7 Board approved three emergency projects at that time to recover groundwater mining losses and increase groundwater production capacity: 1) Lake I - Cope Lake Pipeline Project - completed, 2) construction of Chain of Lakes Well No. 5 - planned functional testing of the well by the end of October 2014, and 3) construction of Busch Valley Well No. 1 – basis of design to be finalized by the end of November 2014 and construction proposed for 2025.

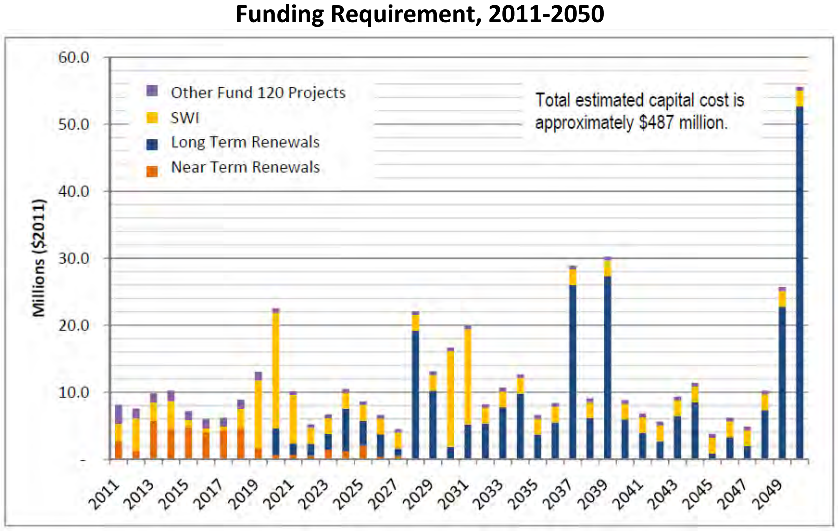
In preparation for continuing drought conditions, an additional drought response project has been included in this CIP: the installation of a Booster Pump Station (BPS). The BPS, or intermediate pump station, would increase well production capacity by lowering system pressures in the west side of the water system and allowing more water to be delivered throughout Zone 7's service area under reduced or zero surface water supply conditions. Given several years of drought, another year of extremely low—or zero—State Water Project (SWP) Table A allocation is quite possible in 2015. With very limited surface water, Zone 7 would be highly reliant on groundwater supply, making the ability to optimize groundwater production capacity and delivery critical. Over the long-term, the BPS will also bolster Zone 7's reliability during SBA outages and generally improve system operational flexibility.

Asset Management Program (AMP)

Beginning in 2010, staff re-evaluated the AMP and on June 15, 2011, the Zone 7 Board adopted Resolution 11-4092 accepting the AMP Update (attached as Appendix B). The AMP update identified short- and long-term renewal/improvement needs and the associated annual funding level necessary to implement these projects. The initial funding recommendation was $12.5M (in 2011 dollars) based on project needs (Figure ES-1 below) through FY 49/50. However, after discussions with the Retailers and Finance Committee, a level of $11.4M (in 2011 dollars) was accepted, with an adjustment for inflation and six year ramp to this amount by FY 16/17 million in order to reduce rate impacts. It was also agreed that the AMP would be updated every five years.

The AMP update provided funding for a well-defined schedule of projects for the renewal of existing facilities, based on factors such as asset condition and estimated useful life. Funding for system-wide improvements was estimated based on small improvement projects planned in the near-term and identified improvements such as ozone treatment. The chromium-6 treatment project was not anticipated and therefore not included in the AMP calculations. Since no additional funding was set aside for unanticipated projects such as chromium-6 treatment, the 2016 AMP update must consider funding for such projects. An adjustment to the annual funding levels may be necessary, because the actual capital project reserve balance will be significantly less than what is projected, and required for implementing future projects beyond the ten-year CIP (see Table ES-1 below). Staff plans to begin an update to the AMP in 2015, with possible Board adoption in 2016.

Figure ES-1 – Total Forecasted Renewal and System-Wide Improvements Funding Requirement, 2011-2050



Source: Zone 7 Asset Management Plan 2011 Update

Water System Funding Analysis

Fund 120

Fund 120 funds projects, or portions thereof, to maintain, replace or improve water system facilities. In the 2004 Asset Management Program (AMP) Study, it was determined that the then-current $4 million annual water rate contribution to capital projects would no longer be adequate to fund the program. That study included an evaluation of Zone 7's inventory of capital assets, asset service life as determined through condition assessments, economic life of the asset, asset risk, criticality, and vulnerability, true replacement costs under current conditions, and the annual allowance necessary to adequately fund Renewal/Replacement projects over the long term. In the 2004 study, Zone 7 obtained a current asset valuation of its existing facilities and recommended an annual funding allowance of $10 million to adequately fund the program.

Beginning in 2010, staff re-evaluated the AMP and on June 15, 2011, the Zone 7 Board adopted resolution 11-4092 accepting the AMP Update The major objectives were to 1) identify and near and long-term renewal needs and a 15-year renewal CIP; 2) develop a long-term renewal forecast and associated annual funding level necessary to implement future renewal and improvement needs.

The funding analysis included short- and long-term project needs through FY 49/50. The initial funding recommendation was $12.5M (in 2011 dollars) annually. However, after discussions with the Retailers and Finance Committee, a level of $11.4M (in 2011 dollars) was accepted, with an eventual ramp-up to this amount (adjusted for inflation) by FY 16/17. The allowance did not include funding for the Third Demineralization Facility or water conservation programs, to allow additional evaluation and confirmation of assumptions. Fund 120's share of water conservation programs, was shifted to the Water Enterprise Fund (Fund 100), while the funding provided by Fund 130 remained.

Table ES-3 and Figure ES-2 below show the projected funding outlook for Fund 120 through FY 24/25, incorporating the Board-approved AMP funding. As illustrated in Table ES-3 and Figure ES-2, there is not sufficient cash in Fund 120 to pay for phase 1 of the ozone project tentatively scheduled for completion at DVWTP in 2018 and chromium-6 treatment. The capital reserve balance goes negative in FY 17/18 because the AMP funding schedule did not provide funding for unanticipated projects such as chromium-6 treatment and assumed a 2023 in-service date for ozone treatment at both plants (i.e., enough time to build up cash reserves). To address the potential funding shortfall, debt financing is a potential alternative for funding the projects. This example is illustrated in Figure ES-3.

The debt financing example assumes a debt issuance of $48M, financed in two phases. The first phase in this example could include $28M for ozone at DVWTP over thirty years at 4% interest ($1.6M annually) incurred in FY 15/16. The second phase in this example could include $20M for chromium-6 treatment also over thirty years at 4% interest ($1.1M annually incurred in 20/21). This example provides adequate funding for planned ten-year CIP, however, the projected capital project reserve balance is less than what has been estimated in the AMP for implementing future projects beyond the ten-year CIP. An adjustment to the annual funding levels may be necessary. Staff plans to begin updating the AMP in 2015, with possible Board adoption in 2016. In addition, many of the projects proposed are contingent on further feasibility studies, evaluations and discussions on debt. The outcomes will guide future budgeting and CIP decisions.

TABLE ES-3
Fund 120 (Water Rates)
PROJECTED FUNDING OUTLOOK – BASE CASE
($ Millions)

1	Fiscal year (FY)	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24	FY 24/25
2	**Beginning Available Capital Reserve Balance**	**$14.31**	**$6.26**	**$0.30**	**-$12.05**	**-$8.79**	**-$11.51**	**-$28.52**	**-$19.08**	**-$12.35**	**-$8.28**
3	**Revenue**										
4	**AMP Transfer from Fund 100**	10.50	12.66	13.40	13.95	14.53	15.13	15.76	16.82	17.50	17.50
5	**Facility Use Fees**	1.05	0.62	0.42	0.42	0.42	0.42	0.42			
6	**Interest Income**	0.29	0.13	0.01							
7	**Other Income**				1.05						
8	**Total Revenue**	11.84	13.41	13.83	15.42	14.95	15.55	16.18	16.82	17.50	17.50
9	**Expenditures**										
10	**R&R Expenditures**	6.96	4.29	12.27	6.27	3.83	2.62	5.89	9.33	12.10	2.04
11	**SWI Expenditures**	11.74	13.87	13.10	5.13	13.09	29.20	0.10	0.01	0.59	0.11
12	**Carryovers/Encumbrances**										
13	**Contingency**	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75
14	**Total Expenditures**	19.4	18.9	26.1	12.2	17.7	32.6	6.7	10.1	13.4	2.9
15	***Capital Reserve Balance***	***6.70***	***0.75***	***-11.99***	***-8.79***	***-11.51***	***-28.52***	***-19.08***	***-12.35***	***-8.28***	***6.31***
16	***AMP TARGET***	***22.51***	***30.49***	***35.52***	***35.21***	***21.31***	***24.03***	***33.22***	***40.20***	***41.57***	***45.65***
17	**Reserved Funds**										
18	**Annual Building Sinking Fund Contribution**	0.44	0.45	0.06	0.00	0.00	0.00	0.00	0.00	0.00	0.00
19	**Reserve Policy Minimum**	31.97	32.20	20.99	33.95	35.93	11.79	16.81	14.88	10.91	16.01
20	***Estimated Available Capital Reserve Balance (Line 15 minus 18)***	***$6.26***	***$0.30***	***($12.05)***	***($8.79)***	***($11.51)***	***($28.52)***	***($19.08)***	***($12.35)***	***($8.28)***	***$6.31***

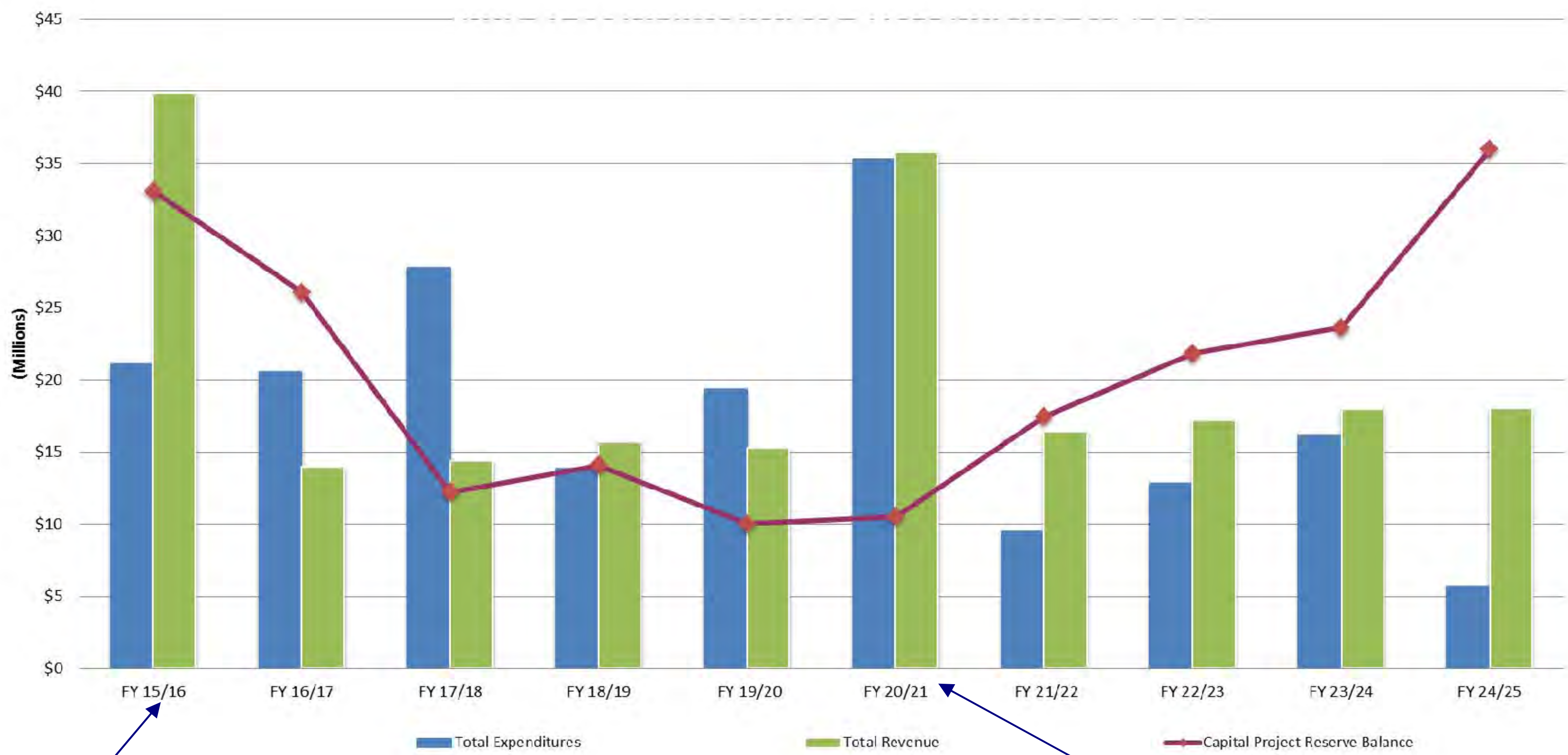
Key Assumptions

Line 2 FY 15/16 estimated Beginning Available Capital Reserve is based on projected prior year revenue and expense estimates.
Line 4 The annual AMP transfer from Fund 100, Water Enterprise to Fund 120.
Line 5 Facility use fees are charged to the Dougherty Valley Service Area to compensate Zone 7 for the use of Zone 7's existing facilities to provide water to this area.
Line 6 Assumes 1% interest in FY 13/14 gradually increasing to 4% by FY 16/17.
Line 7 Other income includes a reimbursement from DSRSD for the Dougherty Reservoir Recoating Project.
Line 9 Expenditures are shown in actual dollars (current dollars adjusted by a 4% annual inflation factor).
Line 16 Recommended Capital Reserve per the AMP.
Line 19 The reserve policy recommends a minimum Capital Reserve of 100% of the current year's expenditures plus 50% of the subsequent year.

Figure ES-2
Fund 120 (Water Rates)
Projected Funding Outlook – Base Case
BASE CASE
($ Millions)

The Capital Project Reserve Balance goes negative in FY 17/18. Debt financing is a possible alternative to address this deficit.

Figure ES-3
Fund 120 – Projected Funding Outlook
Example 1 - Debt Financing Of Ozone and Cr6 Treatment - $48M



FY 15/16 assumes a debt issuance of $28M to fund phase 1 of ozone treatment at DVWTP. A second issuance of $20M is assumed in FY 20/21 for Cr6 treatment

Fund 130

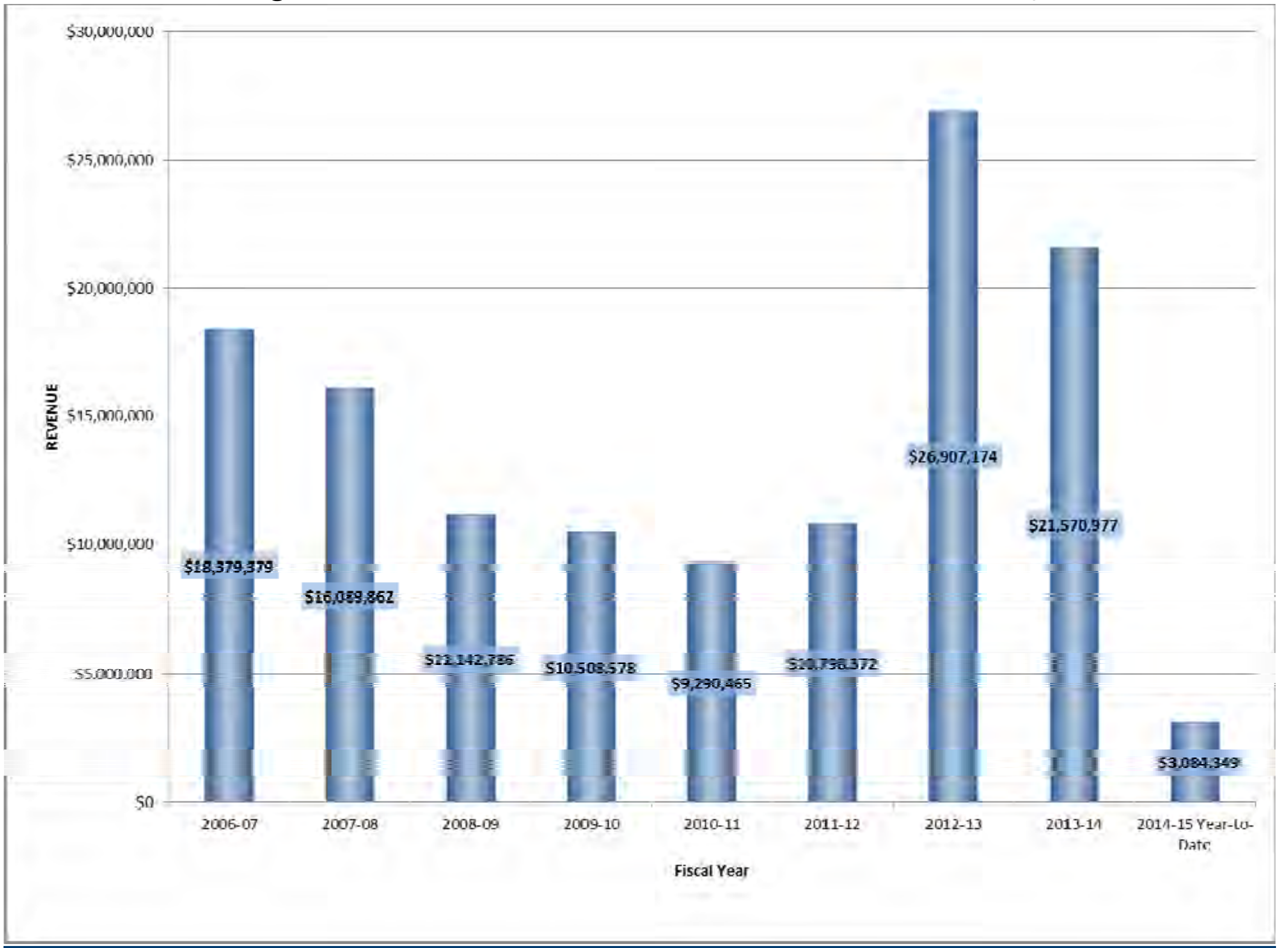
Fund 130 funds projects, or portions thereof, that are needed because of additional demands on the Water System from new development. This includes water purchases, conveyance facilities (e.g., SBA Enlargement Project), treatment and transmission facilities.

On January 15, 2008, Zone 7 completed the necessary documents required to close on a $60 million Installment Sale Agreement (ISA) with Wells Fargo, a form of lease financing that functions similarly to a line of credit. This funding was acquired to bridge a short-term funding gap between anticipated expenditures and revenue. In February 2010, Zone 7 drew $30.5M from the $60M ISA to fund the Altamont Pipeline, Livermore Reach. Interest-only payments were made monthly while the principal amount was due on January 1, 2014. The ISA was paid off on December 20, 2013.

In 2011, staff completed an update to the Municipal and Industrial (M&I) Treated Water Connection Fee Program. The M&I Connection Fee Program was established to ensure that Zone 7 is able to fund the necessary projects within Zone 7's Water System Expansion Program, which will serve the demands of new growth over the next 30 years. More details about the Water System Expansion Program and connection fees can be found in the M&I 2011 Connection Fee Program Update (Zone 7 Water Agency, 2011).

The economic downturn in 2008 had a significant impact on system expansion revenue, the timing of system expansion needs and the ability to fund expansion projects. Since the downturn, expansion projects have been limited to non-discretionary expenses, planning and partial funding for drought emergency projects (i.e., Chain of Lakes Well 5, Chain of Lakes Pipeline and Busch Valley Well 1 land acquisition and basis of design). An uptick in connection fee revenue was experienced in FY 12/13 (see Figure ES-4 below).

Figure ES-4 - Historical Connection Fee Revenue since FY 06/07



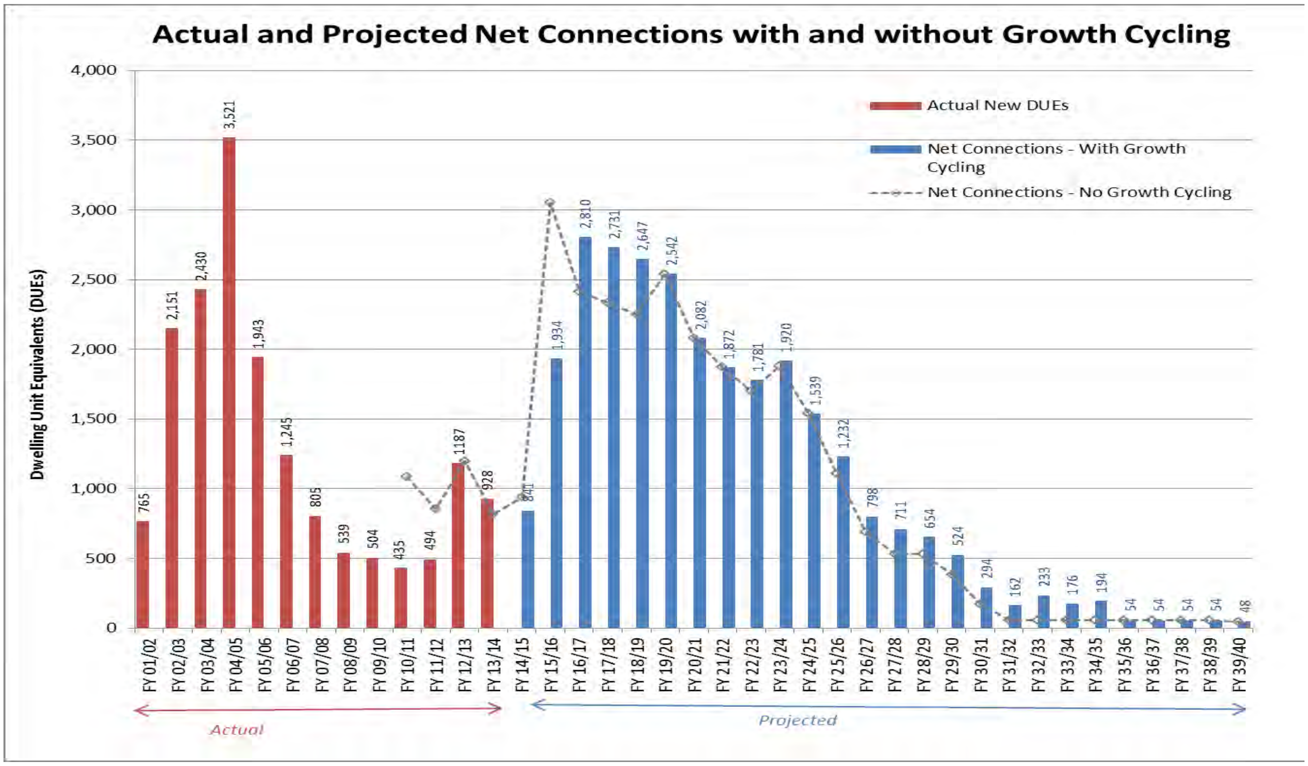
According to a 2013 analysis by the UCLA Anderson School of Business, "home prices are rising and housing starts have approximately doubled off of their depression lows of a few years ago.[1]" For future years, the analysis states, "specifically, we are forecasting that housing starts will increase from the 782,000 units recorded in 2012 to 1.03 million units and 1.35 million units in 2013 and 2014, respectively. For 2015 we are projecting housing starts to reach 1.56 million units." This equates to 50% increase in housing starts from 2012 to 2015. This study supports staff's projection of connection revenue increasing over the next few years.

The 2011 M&I Connection Fee Program Update undertook a comprehensive re-evaluation of projected demands, and new connections in the Zone 7 service area, and the necessary water system expansion projects to meet the needs of future customers. Actual and projected connections from the study are

[1] David Shulman. "Housing Recovery – How Strong? How Long?" in Allen Matkins /UCLA Anderson Forecast: The Recovery in Residential Construction (Summer/Fall 2013).

shown in Figure ES-5 below. Continued recovery in connection fee revenue will facilitate a shift away from funding only non-discretionary expenditures, and support construction of new facilities needed to serve the demands of growth. Staff closely monitors connection fee revenue to assure funding availability.

Figure ES-5 – 2011 M& I Connection Fee Program Actual and Projected Net Connections



*Net connections are calculated from the gross connections adjusted for prepaid connections and credits. Net connections with growth cycling was used for the revenue projections. This growth cycling concept assumes only 70% of the first five years' projections are assumed to occur at that time and the remaining 30% are assumed to occur over FY 25/26 through FY 34/35.

This CIP plans for a total expenditure of $392 million in Expansion projects starting in FY 15/16 through FY 24/25. Of this amount, non-discretionary obligations for the ten-year CIP total close to $220M. Non-discretionary obligations are payments to other agencies, such as the Department of Water Resources for debt incurred on Zone 7's behalf and, that Zone 7 is obligated to pay, including payments for the following projects over the ten-year CIP period:

• SBA Improvement and Enlargement:	$151M
• Future Contractor's Share of SBA:	$30M
• Sinking Funds:	$21M
• Cawelo Groundwater Banking Program:	$12.5M
• Administrative and Engineering Building Lease:	$2M
• Semitropic Storage:	$0.5M
• SWP Peaking Payment:	$0.4M
• Bay Delta Conservation Plan/DHCCP:	$0.4M
• Fixed Cost of Water Entitlement	$0.05M

A large percentage the of non-discretionary expenses is for DWR's capitalization of the SBA Enlargement Project with annual payments of about $15M charged to Fund 130. Fund 110, State Water Project pays roughly $2.5M annually to cover the improvement portion. The project construction costs (excluding debt costs) have increased significantly since the initial estimate of $100M in 2006 to $260M in 2013. In the scheduling and prioritization of Expansion projects, the first priority was to ensure that there were adequate funds to pay for non-discretionary obligations such as the SBA Enlargement Project. Per the Zone 7 capital reserve policy for the Water Expansion Fund, the minimum fund balance should be maintained at 60% of the following year's non-discretionary obligations (~$12.6 million annually). Since Zone 7's projection and economic forecast anticipate continued recovery of housing starts, a number of capital projects have been scheduled in the near term. Table ES-6 (base case) shows projected available funding in Fund 130 through FY 24/25. Based on staff's assumption for connection fees as show in Figure ES-5, sufficient funding is projected to fund expansion projects as planned in the CIP. The red line in Figure ES-6 shows the projected capital project reserve balance through FY 29/30. A longer term view is shown to demonstrate the use of reserves to fund a potential PPWTP expansion/new plant. The line is well above the reserve balance target of $12.6M annually.

Additional analysis was performed to determine the impact on the capital reserve if connection fee revenue does not increase as projected in the 2011 Connection Fee Study (Figure ES-5). Gathering projected near-term connection projections from the Retailers, staff developed the funding example illustrated in Figure ES-7. The analysis finds that there would be enough cash to fund the projects planned in the CIP, however, the FY 24/25 balance is significantly less than Figure ES-6. If connection fee revenue does not increase as projected, it is recommended that capital construction projects are delayed. Construction projects are planned to meet demand growth, so if housing is slow to recover, construction schedules can be adjusted and deferred as necessary. If deferring projects if not a feasible alternative, debt financing could be explored. Zone 7 will continue to monitor the cash flow in this fund to assure cash availability to fund projects above and beyond non-discretionary expenditures.

TABLE ES-6
Fund 130 – Connection Fees
Projected Funding Outlook - Base Case
($ Millions)

	Fiscal year (FY)	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24	FY 24/25
1	**Beginning Available Capital Reserve Balance**	**26.41**	**32.81**	**80.62**	**121.91**	**170.28**	**188.89**	**220.15**	**237.96**	**253.18**	**300.87**
2	**Revenue**										
3	**Connection Fees**	29.52	74.86	75.51	75.76	75.31	63.79	59.34	57.50	62.09	49.86
4	**DWR Refunds**	3.12	3.12	2.95	2.96	2.95	2.95	2.95	2.96	2.99	2.99
5	**Interest**	0.26	0.66	1.61	2.44	3.41	3.78	4.40	4.76	5.06	6.02
6	**Total Revenue**	32.90	78.64	80.07	81.16	81.66	70.52	66.69	65.22	70.15	58.87
7	**Expenditures**										
8	**Expenditures**	23.88	28.14	36.03	29.96	60.68	36.81	46.36	47.40	19.76	41.31
9	**Contigency**	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
10	**Total Expenditures**	24.38	28.64	36.53	30.46	61.18	37.31	46.86	47.90	20.26	41.81
11	**Annual Sinking Fund Contributions**	2.12	2.19	2.25	2.32	1.88	1.95	2.03	2.10	2.19	2.28
12	**Net Available Capital Reserve Balance**	32.81	80.62	121.91	170.28	188.89	220.15	237.96	253.18	300.87	315.65
13	**Designated Reserves (Sinking Funds)**	13.70	15.89	18.14	20.46	22.34	24.29	26.32	28.42	30.61	32.89
14											
15	***Capital Reserve Total***	***32.81***	***80.62***	***121.91***	***170.28***	***188.89***	***220.15***	***237.96***	***253.18***	***300.87***	***315.65***
16	***Reserve Policy Minimum***	***12.60***	***12.60***	***12.60***	***12.60***	***12.60***	***12.60***	***12.60***	***12.60***	***12.60***	***12.60***

Footnotes/Assumptions

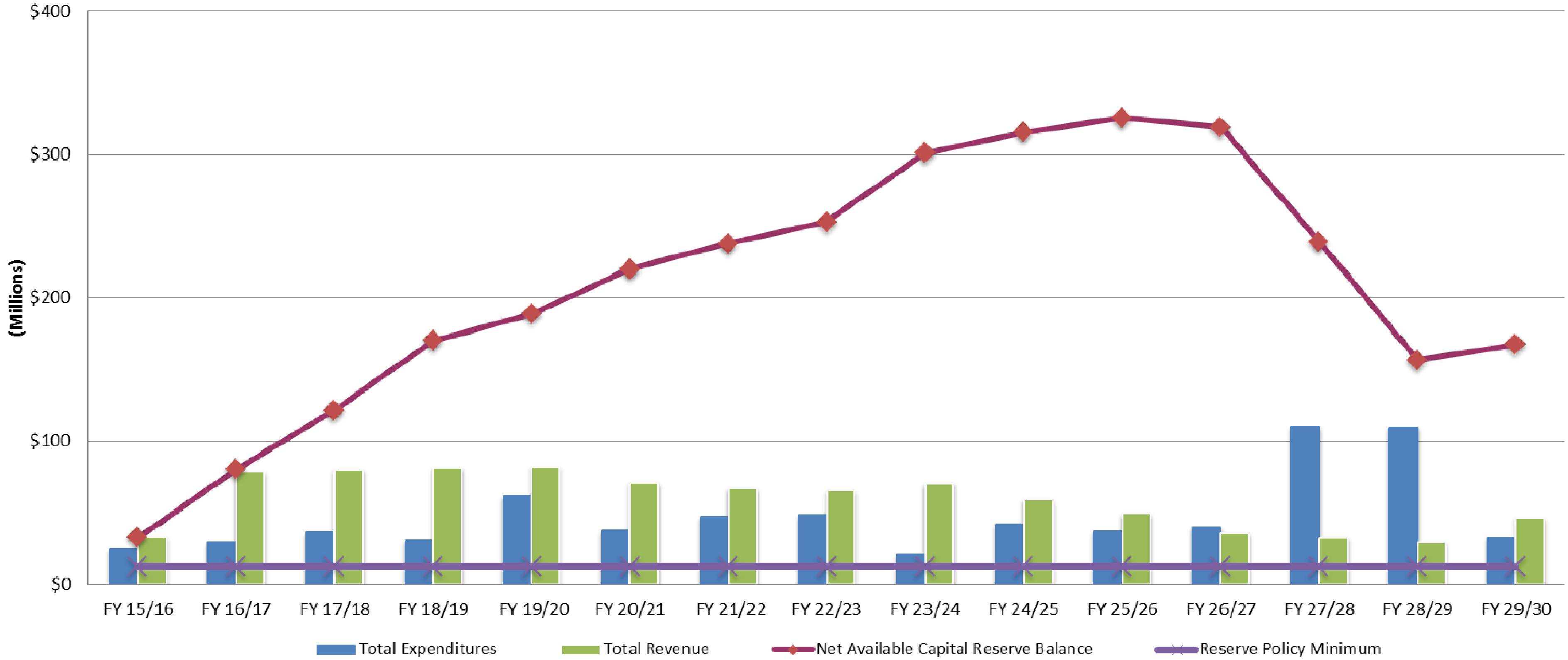
Line 3 - Revenue assumes annual inflationary adjustments to connection fees to keep pace with inflation.

Line 5 -Interest earnings assume 1% interest earned on beginning cash and sinking fund balances in 13/14, gradually increasing to 4% by FY 16/17.

Line 13 - Sinking Fund Contributions/Reserves includes: balance of Future Contractor's Share of the SBA, SBA Enlargement and Administration & Engineering Building sinking funds plus the annual sinking fund contributions.

Line 16 - Fund Balance Target is 60% of the following year's non-discretionary expenditures or ~$13M per the Zone 7 Reserve Policy.

FIGURE ES-6
Fund 130 – Connection Fees
Long-term Projected Funding Outlook – Base Case*
($ Millions)



*Connection fee revenue as projected in the 2011 M&I Connection Fee Program Update.

Figure ES-7
Fund 130 – Connection Fees
Projected Funding Outlook – Example 1
($ Millions)

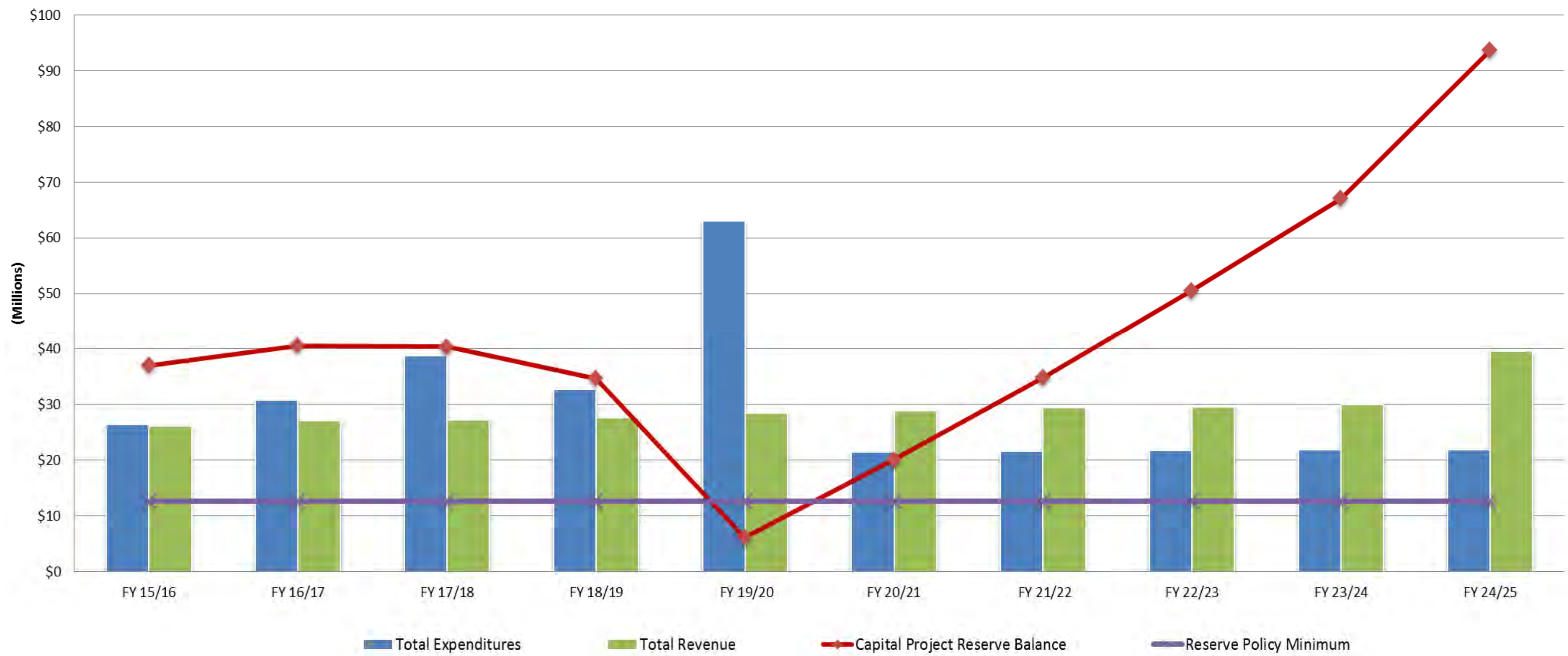


Table ES-7 Renewal/Replacement Strategy Breakdown

	Appropriations ($Millions)										
	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24	FY 24/25	Total
Buildings & Grounds											
Administrative & Engineering Building - Sinking Fund (Fund 120)	$0.418	$0.429	$0.440	$0.450	$0.060						$1.797
Administrative & Engineering Building Lease (Water System)	$0.557	$0.567	$0.578	$0.590	$0.348						$2.640
Subtotal	**$0.975**	**$0.996**	**$1.018**	**$1.040**	**$0.408**						**$4.437**
Groundwater Basin Management											
Monitoring Well Replacements & Abandonments	$0.110		$0.150		$0.160		$0.170		$0.190		$0.780
Stream Gage Replacement										$0.200	$0.200
Subtotal	**$0.110**		**$0.150**		**$0.160**		**$0.170**		**$0.190**	**$0.200**	**$0.980**
Program Management											
Asset Management Program Management	$0.280	$0.050	$0.050	$0.050	$0.050	$0.350	$0.060	$0.060	$0.060	$0.070	$1.080
Capital Improvement Program Management	$0.026	$0.014	$0.029	$0.014	$0.031	$0.017	$0.033	$0.017	$0.036	$0.017	$0.233
Subtotal	**$0.306**	**$0.064**	**$0.079**	**$0.064**	**$0.081**	**$0.367**	**$0.093**	**$0.077**	**$0.096**	**$0.087**	**$1.313**
Regulatory Compliance											
Laboratory Equipment Replacement	$0.120	$0.130	$0.120	$0.130	$0.140	$0.150	$0.150	$0.160	$0.170	$0.170	$1.440
Subtotal	**$0.120**	**$0.130**	**$0.120**	**$0.130**	**$0.140**	**$0.150**	**$0.150**	**$0.160**	**$0.170**	**$0.170**	**$1.440**
Transmission & Distribution											
Distribution System Control Station Replacement							$1.010				$1.010
Transmission System Planning Update	$0.060										$0.060
Turnout Replacement Program								$0.050	$0.360	$0.660	$1.070
Subtotal	**$0.060**						**$1.010**	**$0.050**	**$0.360**	**$0.660**	**$2.140**
Water Treatment Facilities											
Dougherty Reservoir Access Road Rehabilitation				$0.190							$0.190
Dougherty Reservoir Recoating				$2.110							$2.110
DVWTP Ammonia System Replacement			$2.250								$2.250
DVWTP Chemical Feed Lines and Pumps Replacement	$0.170	$0.880									$1.050
DVWTP Drying Beds 1-4 Rehabilitation Project						$0.060	$0.490	$7.650			$8.200
DVWTP Ferric Chloride System Improvements			$0.770								$0.770
DVWTP Filter Rehabilitation - Phase 1			$1.490								$1.490
DVWTP Filter Rehabilitation - Phase 2							$2.330				$2.330
DVWTP Filter Valves Replacement	$0.400										$0.400
DVWTP HVAC Replacement						$0.110	$0.620				$0.730
DVWTP Interior Coating Improvements to the 4.5 MG Steel Clearwell	$2.390										$2.390
DVWTP Main Plant Generator Replacement				$0.030	$0.210						$0.240

Table ES-7 Renewal/Replacement Strategy Breakdown

	Appropriations ($Millions)										
	FY 15/16	**FY 16/17**	**FY 17/18**	**FY 18/19**	**FY 19/20**	**FY 20/21**	**FY 21/22**	**FY 22/23**	**FY 23/24**	**FY 24/25**	**Total**
DVWTP Parking Lot Repair			$0.540								$0.540
DVWTP Rehabilitation Project		$0.330	$2.140								$2.470
DVWTP Roof Replacement and Rehabilitation for 3.0 MG Clearwell	$0.080	$0.500									$0.580
DVWTP Washwater Recovery Ponds Rehabilitation							$0.030	$0.380	$7.960	$0.070	$8.440
Minor Renewal/Replacement Projects	$0.360	$0.380	$0.400	$0.410	$0.430	$0.450	$0.470	$0.480	$0.490	$0.520	$4.390
PPWTP Aqua Ammonia Facility Installation				$0.350	$1.820	$0.250					$2.420
PPWTP Chemical Systems Replacement		$0.160	$0.600								$0.760
PPWTP Clarifiers Concrete Coating								$0.230	$1.370		$1.600
PPWTP Filter Pipe Replacement Project			$0.100	$0.600							$0.700
PPWTP Filter Rehabilitation		$0.160	$1.390								$1.550
PPWTP HVAC Improvements		$0.430									$0.430
PPWTP Rehabilitation Project			$0.100	$0.600							$0.700
PPWTP UF Clarifier Floor Rehabilitation Project					$0.360						$0.360
SCADA Enhancements	$0.240	$0.240	$0.260	$1.200	$0.280	$0.290	$0.310	$0.300	$1.460	$0.330	$4.910
Subtotal	**$3.640**	**$3.080**	**$10.040**	**$5.490**	**$3.100**	**$1.160**	**$4.250**	**$9.040**	**$11.280**	**$0.920**	**$52.000**
Wells											
Hopyard Well 6 & Stoneridge Sodium Hypochlorite Tank Replacement	$0.580	$0.450									$1.030
Hopyard Well No. 6 Inspect & Rehabilitate Pump, Motor, and Well Casing							$0.220				$0.220
Hopyard Well No. 9 Inspect & Rehabilitate Pump, Motor, and Well Casing						$0.220					$0.220
MGDP RO Membrane Replacement	$0.600					$0.720					$1.320
Mocho 2 Well Improvements/Rehabilitation	$0.200										$0.200
Mocho Well No. 3 OSG R/R	$0.490										$0.490
Mocho Well No.1 Sanding Investigation	$0.300										$0.300
Wellfield Switchboard Replacement Project			$1.300								$1.300
Subtotal	**$2.170**	**$0.450**	**$1.300**			**$0.940**	**$0.220**				**$5.080**
Total	**$7.380**	**$4.721**	**$12.707**	**$6.724**	**$3.889**	**$2.617**	**$5.893**	**$9.327**	**$12.096**	**$2.037**	**$67.390**

Table ES-8 System-Wide Improvements Strategy Breakdown

Programs	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24	FY 24/25	Total
	Appropriations ($Millions)										
Transmission & Distribution											
Booster Pump Station	$5.070										$5.070
Corrosion Master Plan Update				$0.270					$0.560		$0.830
System-Wide Installation of Line Valves	$0.050		$0.060		$0.060		$0.070			$0.070	$0.310
Subtotal	**$5.120**		**$0.060**	**$0.270**	**$0.060**		**$0.070**		**$0.560**	**$0.070**	**$6.210**
Water Supply & Conveyance											
Additional Treated Water Storage			$0.392	$2.864	$2.160						$5.416
Arroyo del Valle Permit Extension	$0.520										$0.520
Chain of Lakes Facilities and Improvements				$0.702	$3.651	$3.036					$7.389
Chain of Lakes Master Planning	$0.006	$0.042	$0.027	$0.006						$0.030	$0.111
Reliability Intertie	$0.015	$0.015	$0.354	$0.297	$3.795	$3.624					$8.100
Water System Master Plan	$0.035										$0.035
Subtotal	**$0.576**	**$0.057**	**$0.773**	**$3.869**	**$9.606**	**$6.660**				**$0.030**	**$21.571**
Water Treatment Facilities											
COL Well No. 1,2 & 5 Chromium-6 Treatment						$14.170					$14.170
DVWTP Carbon Dioxide Installation Project	$0.730										$0.730
Ozonation at DVWTP and PPWTP	$4.160	$11.900	$12.250								$28.310
PPWTP Carbon Dioxide Installation Project		$0.600									$0.600
PPWTP Clearwell Improvements	$0.100	$0.520									$0.620
PPWTP Maintenance Yard and Building Improvements				$0.091	$0.665	$0.651					$1.407
PPWTP Sludge Handling Improvements				$0.890	$2.730	$1.680					$5.300
Stoneridge Well Chromium-6 Treatment						$6.020					$6.020
Water Quality Management Program	$0.021	$0.014	$0.021	$0.014	$0.028	$0.014	$0.028	$0.014	$0.028	$0.014	$0.196
Subtotal	**$5.011**	**$13.034**	**$12.271**	**$0.995**	**$3.423**	**$22.535**	**$0.028**	**$0.014**	**$0.028**	**$0.014**	**$57.353**
Wells											
MDGP Water Softening System	$0.100	$0.430									$0.530
MGDP Concentrate Disposal Pipeline Inspection and Cleaning	$0.520										$0.520
MGDP De-Mister Modifications	$0.310										$0.310
Mocho Well 2 - VFD Retrofit		$0.350									$0.350
Mocho Wellfield Automation & Control Valves	$0.100										$0.100
Subtotal	**$1.030**	**$0.780**									**$1.810**
Total	**$11.737**	**$13.871**	**$13.104**	**$5.134**	**$13.089**	**$29.195**	**$0.098**	**$0.014**	**$0.588**	**$0.114**	**$86.944**

Table ES-9 Expansion Strategy Breakdown

Programs	Appropriations ($Millions) FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24	FY 24/25	Total
Buildings & Grounds											
Administrative & Engineering Building - Sinking Fund (Fund 130)	$0.520	$0.520	$0.520	$0.520							$2.080
Administrative & Engineering Building Lease (Water System)	$0.437	$0.446	$0.455	$0.463	$0.274						$2.075
Subtotal	**$0.957**	**$0.966**	**$0.975**	**$0.983**	**$0.274**						**$4.155**
Program Management											
Capital Improvement Program Management	$0.078	$0.043	$0.086	$0.043	$0.093	$0.050	$0.100	$0.050	$0.107	$0.050	$0.698
Subtotal	**$0.078**	**$0.043**	**$0.086**	**$0.043**	**$0.093**	**$0.050**	**$0.100**	**$0.050**	**$0.107**	**$0.050**	**$0.698**
Transmission & Distribution											
PPWTP Expansion Transmission Pipeline										$2.200	$2.200
Transmission System Planning Update	$0.111										$0.111
Westside Transmission System Improvements				$1.240	$6.190						$7.430
Subtotal	**$0.111**			**$1.240**	**$6.190**					**$2.200**	**$9.741**
Water Supply & Conveyance											
Additional Treated Water Storage			$0.588	$4.296	$3.240						$8.124
Arroyo Mocho Diversion Facility Coordination & Implementation	$0.120										$0.120
Arroyo Mocho Low Flow Crossings				$0.170	$0.540						$0.710
Bay Area Regional Desalination Project - Planning	$0.480	$0.500	$0.520								$1.500
Bay-Delta Conservation Planning (Zone 7)	$0.060	$0.060	$0.070	$0.070							$0.260
Cawelo Groundwater Banking Program	$1.240	$1.240	$1.240	$1.250	$1.250	$1.250	$1.250	$1.250	$1.250	$1.250	$12.470
Chain of Lakes Facilities and Improvements				$1.638	$8.519	$7.084					$17.241
Chain of Lakes Master Planning	$0.014	$0.098	$0.063	$0.014						$0.070	$0.259
Delta Habitat Conservation and Conveyance Program	$0.020	$0.020	$0.020	$0.020							$0.080
Delta Outreach Program	$0.040	$0.040	$0.040								$0.120
Fixed Cost of Water Entitlement	$0.033	$0.019									$0.052
Fourth Contractor's Share of the SBA - Sinking Fund	$0.530	$0.550	$0.570	$0.590	$0.620	$0.640	$0.670	$0.690	$0.720	$0.750	$6.330
Fourth Contractor's Share of the SBA (capital costs)	$3.000	$3.000	$3.000	$3.000	$3.000	$3.000	$3.000	$3.000	$3.000	$3.000	$30.000
High-Efficiency Toilet Rebate Program	$0.030	$0.030	$0.030								$0.090
High-Efficiency Washing Machine Rebate Program	$0.090	$0.070	$0.080	$0.060	$0.060	$0.040	$0.040				$0.440
Reliability Intertie	$0.035	$0.035	$0.826	$0.693	$8.855	$8.456					$18.900
Semitropic Stored Water Recovery Unit	$0.050	$0.050	$0.050	$0.050	$0.050	$0.050	$0.050	$0.050	$0.050	$0.050	$0.500
South Bay Aqueduct Enlargement Project - Sinking Fund	$1.070	$1.120	$1.160	$1.210	$1.260	$1.310	$1.360	$1.410	$1.470	$1.530	$12.900
South Bay Aqueduct Enlargement Project	$16.431	$15.606	$15.324	$14.771	$14.760	$14.762	$14.774	$14.843	$14.944	$14.888	$151.103
SWP Peaking Payment (Lost Hills & Belridge Water Districts)	$0.060	$0.060	$0.050	$0.050	$0.040	$0.030	$0.030	$0.020	$0.020	$0.010	$0.370
Water Conservation Best Management Practices	$0.030	$0.020	$0.020	$0.020	$0.020	$0.020	$0.020	$0.020	$0.020	$0.020	$0.210
Water Supply Replacement			$0.520	$0.540	$1.700	$1.780	$27.080	$28.160	$0.360	$0.370	$60.510

Table ES-9 Expansion Strategy Breakdown (Continued)

	Appropriations ($Millions)										
Programs	**FY 15/16**	**FY 16/17**	**FY 17/18**	**FY 18/19**	**FY 19/20**	**FY 20/21**	**FY 21/22**	**FY 22/23**	**FY 23/24**	**FY 24/25**	**Total**
Water System Master Plan	$0.065										$0.065
Subtotal	**$23.398**	**$22.518**	**$24.171**	**$28.442**	**$43.914**	**$38.422**	**$48.274**	**$49.443**	**$21.834**	**$21.938**	**$322.354**
Water Treatment Facilities											
New Water Treatment Plant										$6.400	$6.400
PPWTP Expansion/New Media Filters	$1.450	$6.020	$5.740								$13.210
PPWTP Maintenance Yard and Building Improvements				$0.039	$0.285	$0.279					$0.603
Water Quality Management Program	$0.009	$0.006	$0.009	$0.006	$0.012	$0.006	$0.012	$0.006	$0.012	$0.006	$0.084
Subtotal	**$1.459**	**$6.026**	**$5.749**	**$0.045**	**$0.297**	**$0.285**	**$0.012**	**$0.006**	**$0.012**	**$6.406**	**$20.297**
Wells											
Busch-Valley Well 1										$13.000	$13.000
Chain of Lakes Wells 3 & 4			$0.890	$0.920	$11.160						$12.970
El Charro Pipeline Phase 2		$0.560	$6.410	$0.610	$0.630						$8.210
Well Master Plan Update		$0.220									$0.220
Subtotal		**$0.780**	**$7.300**	**$1.530**	**$11.790**					**$13.000**	**$34.400**
Total	**$26.003**	**$30.332**	**$38.280**	**$32.283**	**$62.557**	**$38.757**	**$48.386**	**$49.499**	**$21.953**	**$43.594**	**$391.644**

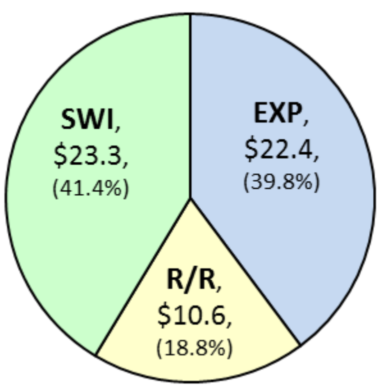
Flood Protection CIP Overview

Zone 7's capital improvements for flood protection are divided into three funding strategies: (1) Renewal/Replacement (R/R); (2) System-wide Improvements (SWI); and (3) Expansion (EXP). Renewal/Replacement covers operation and maintenance of the existing system. System-wide Improvements and Expansion cover the capital cost share of existing and future users, respectively. The respective shares are defined in the Development Impact fees for Flood Protection and Storm Water Drainage report dated March 7, 2009.

Funding Need Divided into 3 Strategies

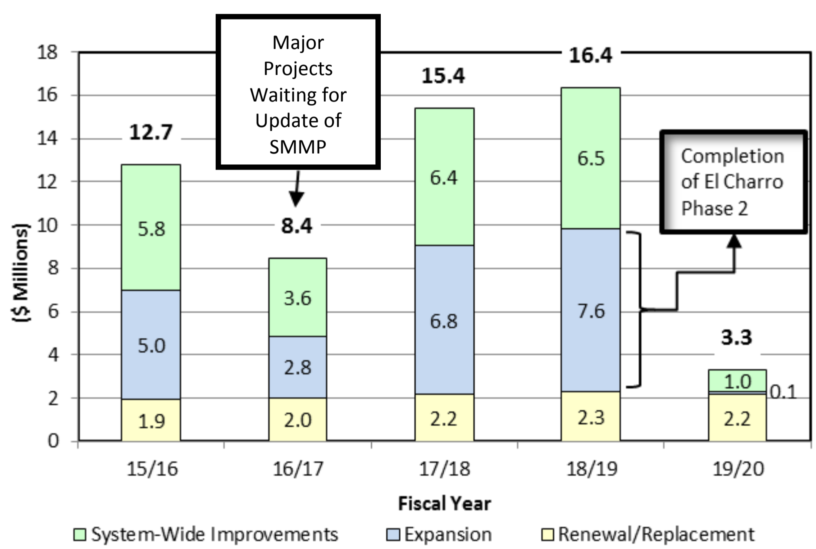
Strategy	Examples
Renewal/Replacement *(i.e., Operation & Maintenance)*	• Channel slope repair • Fencing/Gate installation and replacement • Landscaping and hydroseeding
System-Wide Improvements *(Existing user share of programs & projects)*	• Major flood enhancement projects (e.g., detention basin) • Major planning studies (e.g., SMMP update)
Expansion (Future user share of programs & projects)	• Major flood enhancement projects (e.g., detention basin) • Major planning studies (e.g., SMMP update)

Funding Need: $56.3 Million,
but less than 20% is Renewal/Replacement



Zone 7 projects $56.3 M in capital expenditures over the next five years. Over 80% of the projected expenditure is associated with major flood protection programs and projects, while less than 20% is associated with Renewal/Replacement type activities. The large allocation of funding to major flood protection programs and projects reflects ongoing projects previously identified in the SMMP, including major wetland/stormwater detention projects at the Chain of Lakes, upstream of Chabot Canal, and along the Arroyo Mocho.

Small Drop in Expenditures Expected in 16/17
as the SMMP Update is completed and additional funding secured



Flood Protection Funding Analysis

Zone 7 currently uses two sources of revenue to fund flood protection activities. The first source is property taxes and the second source is development impact fees. Revenue from property taxes is placed in Fund 200, while revenue from development impact fees is placed in Fund 210; each is discussed in more detail below.

Fund 200 – Flood Protection General Fund

Alameda County provides Zone 7 with a portion of the taxes levied based on one percent (1%) of the assessed value of all properties within Zone 7's service area. The revenues that Zone 7 receives from Alameda County are placed into Fund 200, and can be used to support both renewal/replacement activities and improvements. Zone 7 may sometimes supplement these revenues with state and federal grant funding. Table ES-10 and Figure ES-8 below presents the projected funding for Fund 200 over the next five years.

Table ES-10 Fund 200 (Property Taxes) - NEAR-TERM FUNDING ($ Millions)

1	**Fiscal year (FY)**	**FY 15/16**	**FY 16/17**	**FY 17/18**	**FY 18/19**	**FY 19/20**
2	**Beginning. Available Fund Balance**	**$12.73**	**$11.90**	**$13.38**	**$12.26**	**$11.15**
3	**Revenue**					
4	Property Tax Revenue	6.38	6.64	6.90	7.18	7.47
5	Other Revenue	0.51	0.48	0.54	0.49	0.45
6	Total Revenue	6.89	7.11	7.44	7.67	7.91
7	**Expenditures**					
8	Capital and O&M Expenditures	7.73	5.64	8.56	8.78	3.23
9	Total Expenditures	7.73	5.64	8.56	8.78	3.23
10	**Fund Balance**	11.9	13.4	12.3	11.2	15.8
11	**Reserve Balances**					
12	**Capital Projects**	6.98	9.40	6.71	5.38	12.72
13	**Operating Reserves**	3.86	2.82	4.28	4.39	1.61
14	**Sinking Fund**	1.049	1.154	1.264	1.384	1.509
15	Reserve Total	$ 11.90	$ 13.38	$ 12.26	$ 11.15	$ 15.84

Key Assumptions

Line 1 Beginning fund balance excludes prior year encumbrance carryovers.

Line 4 Since taxes are based on the assessed property value, which fluctuates over time, Zone 7 has based the contribution on historic experience. A three percent annual increase is conservatively estimated to account for growth in assessed valuation.

Line5 Assumes 1% interest income earned on cash and sinking fund balances, increasing to 4% by FY 16/17.

Line 7 Expenditures are shown in actual dollars (current dollars adjusted by a 4% annual inflation factor) and include capital (System-wide Improvements) and O&M (Renewal/Replacement).

Line 13 Reserve policy recommends a reserve policy minimum of at least 50% of following year's operating expenses.

Figure ES-8 Fund 200 (Property Taxes) –
NEAR-TERM FUNDING ($ Millions)

Fund 210 – Flood Protection and Storm Water Drainage Development Impact Fee

Twenty-six million of the total flood protection projects are funded by Fund 210. Fund 210 - holds all fees collected from future development in support of Zone 7's flood protection and stormwater drainage activities.

The Zone 7 Board approved the Stream Management Master Plan (SMMP) in August 2006. Subsequently, Zone 7 adopted Ordinance 2009-01 to establish the new development impact fee (DIF) necessary to support SMMP projects within the Alameda Creek Watershed. This study recommended a fee of $1.423 per square-foot of impervious area created by new development. The calculation included $11,981,769 as the starting balance. After discussions with the cities and Zone 7 Board, this fee was subsequently capped at $1.10, and is currently $1.00. Over the next few years, Zone 7 will update the SMMP and DIF studies. These updates will reassess the projects and costs proposed in the SMMP and also reevaluate the current fee structure.

The SMMP and DIF identified $222 million in flood protection projects to be funded by this fund. Incorporating the projected expenditures planned within this CIP, Zone 7 projects a fund balance of $29M million in FY 18/19. This fund balance, along with other funding sources (to be examined in the DIF and SMMP updates) will be used to fund future flood protection and stormwater drainage projects identified in the SMMP.

The near term funding outlook for Fund 210 is shown in Table ES-11 and Figure ES-9 below.

Table ES-11 Fund 210 (Development Impact Fees) - NEAR-TERM FUNDING ($ Millions)

	Fiscal year (FY)	15/16	16/17	17/18	18/19	19/20
1	**Beg. Available Capital Reserve Balance**	**$38.30**	**$36.57**	**$37.14**	**$33.85**	**$29.90**
2	**Revenue**					
3	Development Impact Fees	2.66	2.79	2.93	3.08	3.23
4	Other Revenue	0.77	0.73	0.74	0.68	0.60
5	Total Revenue	3.422	3.521	3.672	3.752	3.827
6	**Expenditures**					
7	Capital Expenditures	5.05	2.84	6.84	7.58	0.12
8	Total Expenditures	5.05	2.84	6.84	7.58	0.12
9	**Capital Reserve Balance**	**$36.67**	**$37.25**	**$33.97**	**$30.03**	**$33.61**
10	**Sinking Funds**					
11	Annual Building Sinking Fund Contribution	0.105	0.110	0.120	0.125	0.020
11	Building Sinking Fund Reserve Balance	1.05	1.16	1.28	1.41	1.43
12	**Estimated Available Capital Reserve Balance**	**$36.57**	**$37.14**	**$33.85**	**$29.90**	**$33.59**

Key Assumptions

Line 1 Beginning fund balance excludes prior year encumbrance carryovers.
Line 3 Development Impact Fee revenue based on a conservative growth projection.
Line 4 Assumes 1% interest income earned on cash and sinking fund balances, increasing to 4% by FY 16/17.
Line 6 Expenditures are shown in actual dollars (current dollars adjusted by a 4% annual inflation factor).
Line 12 Net available capital reserves after sinking fund contribution.

Figure ES-9 Fund 210 (Development Impact Fees)
Near-Term Funding Outlook ($ Millions)

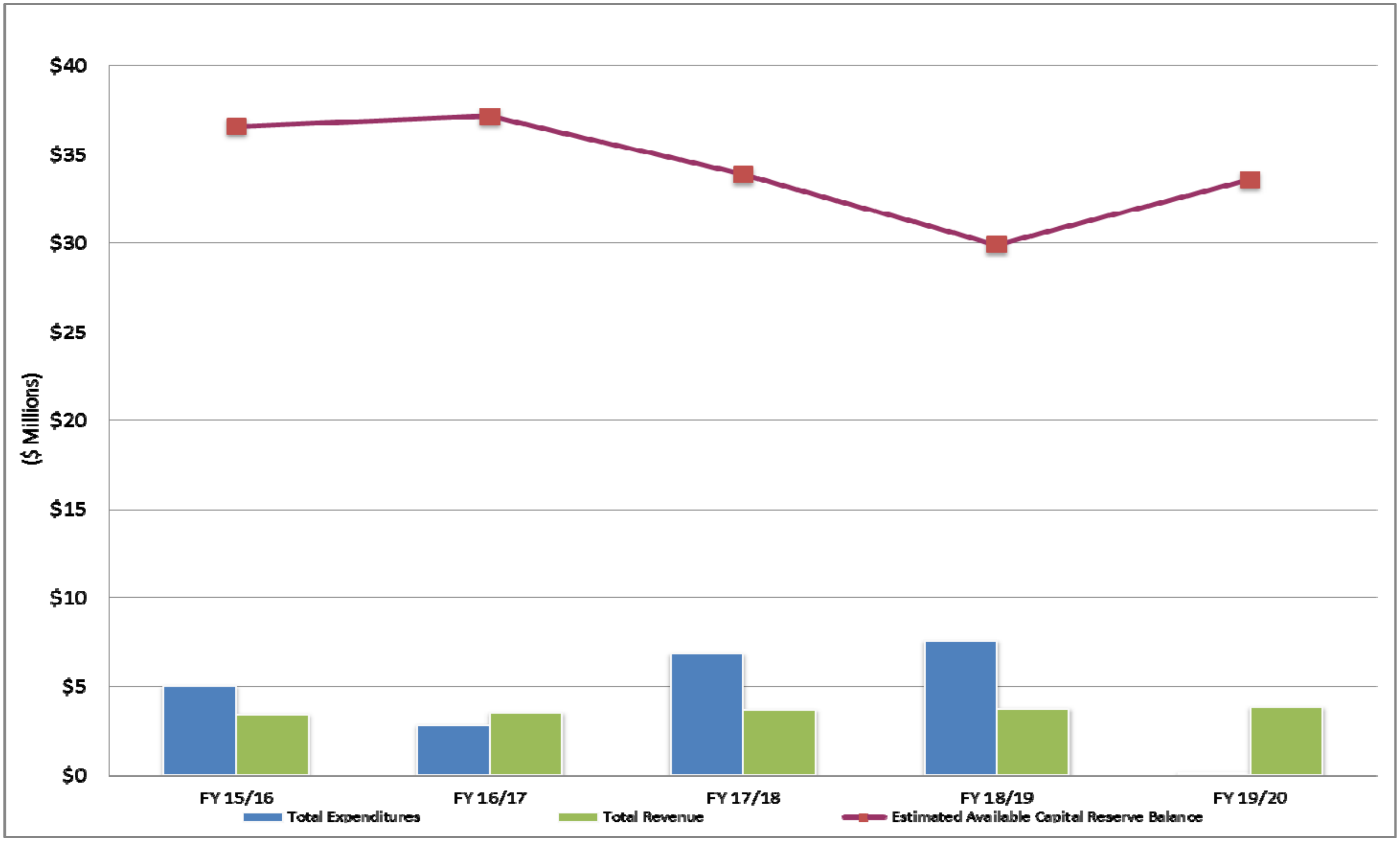


Table ES-12 Flood Protection Renewal/Replacement Strategy Breakdown (Fund 200)

Program		Appropriation ($Millions)					
		FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	Total
Buildings & Grounds							
	Administrative & Engineering Building Lease (Flood Protection)	$0.14	$0.14	$0.15	$0.16	$0.10	$0.69
	Administrative and Engineering Building - Sinking Fund (Flood Protection)	$0.10	$0.11	$0.12	$0.12	$0.02	$0.46
Subtotal		**$0.24**	**$0.25**	**$0.27**	**$0.28**	**$0.12**	**$1.14**
Flood Control Facilities							
	Construction and Rehabilitation of Maintenance Roads	$0.21	$0.22	$0.23	$0.24	$0.21	$1.11
	District-wide F. C. Channel Desilting Program	$0.10	$0.11	$0.11	$0.11	$0.14	$0.57
	Fences & Gates Installation & Replacement	$0.05	$0.05	$0.05	$0.05	$0.05	$0.25
	Landscaping & Hydroseeding Channel Embankments	$0.11	$0.11	$0.11	$0.12	$0.12	$0.57
	Rehabilitation of F. C. Channel Embankments	$1.11	$1.15	$1.30	$1.35	$1.41	$6.32
	System-wide Construction of Drain Structures	$0.12	$0.13	$0.13	$0.13	$0.14	$0.65
Subtotal		**$1.70**	**$1.77**	**$1.93**	**$2.00**	**$2.07**	**$9.47**
Program Management							
	Capital Improvement Program Management	$0.001	$0.001	$0.002	$0.001	$0.002	$0.01
Subtotal		**$0.001**	**$0.001**	**$0.002**	**$0.001**	**$0.002**	**$0.01**
Total		**$1.94**	**$2.02**	**$2.20**	**$2.28**	**$2.19**	**$10.62**

Table ES-13 Flood Protection System-Wide Improvements Strategy Breakdown (Fund 200)

	Appropriation ($Millions)					
Program	**FY 15/16**	**FY 16/17**	**FY 17/18**	**FY 18/19**	**FY 19/20**	**Total**
Flood Control Facilities						
Arroyo Las Positas Treatment Wetland	$1.54	$0.38	$0.00	$0.00	$0.00	$1.92
Arroyo Mocho Floodplain and Riparian Forest Restoration	$0.18	$0.16	$1.40	$1.12	$0.00	$2.86
Chain of Lakes Facilties - Flood	$0.26	$0.43	$0.00	$0.00	$0.00	$0.70
Chain of Lakes Planning - Flood	$0.01	$0.07	$0.04	$0.01	$0.00	$0.13
Coordination Studies in Northern Alameda Creek Watershed	$0.07	$0.03	$0.00	$0.00	$0.00	$0.10
Coordination Studies in Southern Alameda Creek Watershed	$0.04	$0.02	$0.03	$0.01	$0.00	$0.10
El Charro Phase 2 (SMMP Project R.5-2 - Chain of Lakes)	$0.92	$0.58	$3.34	$4.29	$0.00	$9.12
Flood Control Hydrologic and Hydraulic Model Improvements and Upgrades	$0.17	$0.00	$0.00	$0.00	$0.00	$0.17
Flood Warning System Development and Implementation	$0.05	$0.04	$0.00	$0.00	$0.00	$0.09
Living Arroyos Program	$0.11	$0.07	$0.07	$0.07	$0.00	$0.31
Sediment Transport Study	$0.05	$0.05	$0.00	$0.00	$0.00	$0.09
Slope Stability Study	$0.22	$0.70	$0.34	$0.00	$0.00	$1.26
SMMP Financing Strategy and Implementation	$0.53	$0.17	$0.00	$0.00	$0.00	$0.69
South San Ramon Creek Iron Horse Trail Floodplain and Riparian Restoration	$0.00	$0.17	$0.35	$0.17	$0.00	$0.70
Stream Maintenance Program & Permitting	$0.90	$0.00	$0.00	$0.00	$0.00	$0.90
System-wide Asphalt Paving F.C. Facility Driveway	$0.10	$0.10	$0.10	$0.10	$0.29	$0.69
System-wide Concrete V-ditches Improvements	$0.09	$0.09	$0.09	$0.09	$0.10	$0.46
System-wide Vegetation Abatement	$0.56	$0.58	$0.60	$0.63	$0.65	$3.02
Total	**$5.79**	**$3.62**	**$6.36**	**$6.50**	**$1.04**	**$23.31**

Table ES -14 Flood Protection Expansion Strategy Breakdown (Fund 210)

Program		Appropriation ($Millions)				
	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	Total
Buildings & Grounds						
Administrative & Engineering Building Lease (Flood Protection)	$0.14	$0.14	$0.15	$0.16	$0.10	$0.69
Administrative and Engineering Building - Sinking Fund (Flood Protection)	$0.10	$0.11	$0.12	$0.12	$0.02	$0.46
Subtotal	**$0.24**	**$0.25**	**$0.27**	**$0.28**	**$0.12**	**$1.14**
Flood Control Facilities						
Arroyo Las Positas Treatment Wetland	$2.05	$0.50	$0.00	$0.00	$0.00	$2.55
Arroyo Mocho Floodplain and Riparian Forest Restoration	$0.24	$0.21	$1.86	$1.48	$0.00	$3.78
Chain of Lakes Facilties - Flood	$0.35	$0.58	$0.00	$0.00	$0.00	$0.92
Chain of Lakes Planning - Flood	$0.01	$0.09	$0.06	$0.02	$0.00	$0.18
Coordination Studies in Northern Alameda Creek Watershed	$0.05	$0.02	$0.00	$0.00	$0.00	$0.07
Coordination Studies in Southern Alameda Creek Watershed	$0.03	$0.02	$0.02	$0.01	$0.00	$0.07
El Charro Phase 2 (SMMP Project R.5-2 - Chain of Lakes)	$1.21	$0.76	$4.42	$5.68	$0.00	$12.08
Flood Control Hydrologic and Hydraulic Model Improvements and Upgrades	$0.12	$0.00	$0.00	$0.00	$0.00	$0.12
Flood Warning System Development and Implementation	$0.04	$0.03	$0.00	$0.00	$0.00	$0.06
Living Arroyos Program	$0.07	$0.05	$0.05	$0.05	$0.00	$0.22
Sediment Transport Study	$0.03	$0.03	$0.00	$0.00	$0.00	$0.07
Slope Stability Study	$0.05	$0.14	$0.07	$0.00	$0.00	$0.26
SMMP Financing Strategy and Implementation	$0.37	$0.12	$0.00	$0.00	$0.00	$0.48
South San Ramon Creek Iron Horse Trail Floodplain and Riparian Restoratio	$0.00	$0.04	$0.07	$0.04	$0.00	$0.14
Steelhead and Related Studies	$0.02	$0.02	$0.02	$0.02	$0.00	$0.08
Stream Maintenance Program & Permitting	$0.18	$0.00	$0.00	$0.00	$0.00	$0.18
Subtotal	**$4.81**	**$2.59**	**$6.57**	**$7.30**	**$0.00**	**$21.27**
Program Management						
Capital Improvement Program Management	$0.004	$0.002	$0.005	$0.002	$0.005	$0.02
Subtotal	**$0.00**	**$0.00**	**$0.01**	**$0.00**	**$0.01**	**$0.02**
Total	**$5.05**	**$2.84**	**$6.84**	**$7.58**	**$0.12**	**$22.42**

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING DIVISION: ADMINISTRATIVE SERVICES
CONTACT PERSON: TOM HUGHES/TAMARA BAPTISTA

AGENDA DATE: October 15, 2014 ITEM NO. **10**

SUBJECT: Treated Water/Recharge Rate Schedules for 2015 and 2016

SUMMARY:

- The proposed treated water rate schedules apply to calendar year 2015 and 2016.
- At the October 1, 2014 Board meeting, the Board directed staff to forward three proposals.
- If adopted, the 2015 rates will become effective on January 1, 2015 and the 2016 rate would become effective on January 1, 2016.

	Proposals					
	A		**B***		**C**	
Treated Water Rate Year	**2015**	**2016**	**2015**	**2016**	**2015**	**2016**
Treated Water Rate Increase	7%	7%	3%	3%	5%	5%
Drought Surcharge					2%	2%
* Includes a reduction of $3.5M for the transfer to Fund 120 for AMP						

RECOMMENDED ACTION:

Staff recommends adopting the attached resolution approving the following Treated Water Service Rates for 2015 and 2016 based on the 7% -7% for two years rate proposal:

a) Delta charge for 2015 and 2016 of $6 per acre-foot to be included for all treated water rates.
b) Treated Water rate schedule for 2015; based on $1,038 per acre-foot (7%) which includes the Delta charge. Treated Water rate schedule for 2016; based on $1,111 per acre-foot (7%), which includes the Delta charge.
c) Recharge Fee for 2015 of $702 per acre-foot, which includes the Delta charge.
d) Temporary Treated Water rate schedule for 2015 of $4.26/100CF, which includes the Delta charge. Temporary Treated Water rate schedule for 2016 of $4.56/100CF.
e) Treated Water rate schedule for Private Fire and Standby Service for 2015 of $4.26/100CF which includes the Delta charge and for 2016, a rate of $4.56/100CF.
f) In-Lieu Water Rate for 2015 of $112 per acre-foot.

M E M O R A N D U M

DATE: October 15, 2014

TO: Jill Duerig, General Manager

FROM: Tom Hughes, Assistant General Manager, Administrative Services
Tamara Baptista, Financial & Systems Services Manager

SUBJECT: Treated Water/Recharge Rate Schedules for 2015 and 2016

SUMMARY/BACKGROUND:

Water rates for 2015 and 2016 were discussed at the Finance Committee meetings on August 28, 2014 and September 9, 2014. Staff also held retailer meetings on September 4. Based upon input and feedback at these meetings, staff has calculated three different calculations. Staff met with the retailers again on September 25, 2014 and on October 9, 2014 to continue the discussions. At the October 1, 2014 Board meeting , the Board directed staff to bring two proposals for the preliminary 2015 and 2016 treated water rates to the October 15, 2014 Board meeting for consideration as well as develop a third proposal based on a base rate plus a Drought Surcharge:

o Proposal A – 7% increase for 2015 and 7% increase for 2016
This is staff's recommendation. This calculation covers the two years cost of service and was reserve neutral. Staff believes that this is the lowest possible rate increase with minimal impact on Fund 100 reserves during the two-year period of analysis.

o Proposal B – 3% CPI increase for 2015 and 3% CPI increase for 2016, reducing the transfer to Fund 120 for AMP to $7M in FY 15/16
This is in response to the Finance Committee's request to find a creative way to keep rate increases as low as possible. The projected addition of use of reserves during the two-year period of analysis is $1.8M from Fund 100 and $3.5M from Fund 120.

o Proposal C – 5% increase plus a 12-month 2% Drought Surcharge for 2015 and a 5% increase plus a 12-month 2% Drought Surcharge for 2016
The 5% increase covers the non-drought related cost of service, including scheduled AMP transfers and the 2% Drought Surcharge partially covers the drought-related cost of service and projected loss of revenue.) The 2% Drought Surcharge is temporary and will sunset at the end of each year. The projected additional use of Fund 100 reserves during the two-year period of analysis is $1.3M.

DISCUSSION:

Tiered Rate Structure: In order to maintain a focus on operations as a wholesale water agency, the base treated water rate has historically been tiered with increasing rates for smaller volume service, thus encouraging smaller users to seek service from the major retailers. Additionally, as invoicing has traditionally referenced volume in 100 cubic foot (CF) units, the basic treated water rate is converted from $X per AF to $Y per 100 CF (1 AF = 43,560 CF = 435.60 100 CF). The highest tier, at 179% of the base, applies to each customer taking up to 3,300 CF monthly. The next lower tier, at 143% of the base, applies to the next 30,000 CF, then the next tier, at 114% of the base, applies to the next 300,000 CF. The base tier applies to customers taking delivery of more than 333,300 CF monthly.

Recharge Fee:
The annual rate schedule includes a recharge fee for retailer pumping beyond their respective independent/groundwater pumping quota. This rate applies to the retail agencies with which we have treated water delivery contracts and includes the Delta charge. The proposed rate is $702 per acre-foot (AF) based on the volume of estimated water delivery. This fee applies only when the Retailers exceed their respective groundwater-pumping quota (GPQ). Historically, this fee has been rarely used and then only for small quantities since the retailers generally do not exceed their independent quota.

In-Lieu Water Rate
In the event staff concludes that surplus surface water is available in 2015 and that it would be cost-effective to offer it to retailers at a reduced rate to achieve groundwater management objectives, in-lieu treated water could be offered. In-lieu water is treated water that the Retailers can purchase from Zone 7 instead of pumping their respective GPQ. This rate was established in 1993 to encourage artificial recharge when surplus surface water is available. The rate is based on the power and chemical costs at the Del Valle and Patterson Pass Water Treatment plants and is proposed at $112 per AF for 2015.

Temporary Treated:
The temporary treated water rate is based on the first tier of the scheduled treated water rate schedule. The need for temporary services stems from the inability of customers to obtain water in the outlying areas of the valley. The use of these services is limited. Please see the table below for the temporary treated water rates based on the three proposals.

Fire and Standby Service:
Each year the Board also sets a treated water schedule for fire and standby service for the Lawrence Livermore National Laboratory (LLNL). In 2004, the Board adopted the recommendation by staff that this rate be set at the first tier of the treated water rate, which is equivalent to the temporary treated water rate, with the added requirement that LLNL must also pay the same monthly service charge of $144 per connection as the regular treated water contractors. Low volume users pay a higher unit cost due to the fixed costs being spread over a smaller volume of water, thereby increasing the cost per unit. Please see the table below for the temporary treated water rates based on the three proposals.

	Proposals					
	A		B		C	
Treated Water Rate Year	**2015**	**2016**	**2015**	**2016**	**2015**	**2016**
Temporary Treated Water (CCF)	$4.26	$4.56	$4.10	$4.22	$4.26	$4.47
Fire and Standby (CCF)	$4.26	$4.56	$4.10	$4.22	$4.26	$4.47

RECOMMENDED ACTION:

Staff recommends adopting the attached resolution approving the following Treated Water Service Rates for 2015 and 2016 based on the 7% -7% for two years rate proposal:

a) Delta charge for 2015 and 2016 of $6 per acre-foot to be included for all treated water rates.
b) Treated Water rate schedule for 2015; based on $1,038 per acre-foot (7%) which includes the Delta charge. Treated Water rate schedule for 2016; based on $1,111 per acre-foot (7%), which includes the Delta charge.
c) Recharge Fee for 2015 of $702 per acre-foot, which includes the Delta charge.
d) Temporary Treated Water rate schedule for 2015 of $4.26/100CF, which includes the Delta charge. Temporary Treated Water rate schedule for 2016 of $4.56/100CF.
e) Treated Water rate schedule for Private Fire and Standby Service for 2015 of $4.26/100CF which includes the Delta charge and for 2016, a rate of $4.56/100CF.
f) In-Lieu Water Rate for 2015 of $112 per acre-foot.

ATTACHMENTS:

Resolution A
Resolution B
Resolution C
Proposals for 2015 & 2016 Water Rates

Revised Resolution – Proposal A

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Adoption of the Treated Water Service Rates for 2015 & 2016 (7%-7%)

BE IT RESOLVED by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District that the following rate schedule for Treated Water, Recharge, Temporary Treated Water, Fire and Standby and In-Lieu services be adopted:

BE IT FURTHER RESOLVED that the 2015 & 2016 Delta Charge shall be $6 per acre-foot for all categories of Zone 7's water rates and the Board does hereby reserve the right to, by resolution, increase, decrease or eliminate this Delta Charge at any time based on actual experience.

FIRST, for Treated Water service a service charge of $144.00 per month per metered service for 2015, and $148.00 per month per metered service for 2016; and

A delivery charge, based on $1,038 per acre-foot for 2015, and $1,111 per acre-foot for 2016 in 100 cubic feet (CCF) units for all metered water delivered to each customer per month, which includes the Delta Charge as follows:

	2015	**2016**
For the first 3,300 cubic feet	$4.256 per CCF	$4.555 per CCF
For the next 30,000 cubic feet	$3.408 per CCF	$3.647 per CCF
For the next 300,000 cubic feet	$2.717 per CCF	$2.908 per CCF
For all over 333,300 cubic feet	$2.383 per CCF	$2.551 per CCF

SECOND, for Recharge services a recharge fee of $702 per acre-foot for 2015, which includes the Delta charge, which is the unit cost of replenishment water to achieve full cost of recovery when it is necessary to replenish the main groundwater basin when water is pumped in excess of a retailers Groundwater Pumping Quota or Independent Quota.

THIRD, for Temporary Treated Water service an initial service establishment charge of $144.00 per turnout for 2015, and $148.00 per turnout for 2016 or each new direct connection to the Zone system; and

A monthly meter service charge of $21.00 per turnout for 2015 & 2016; and

A charge of $4.26 per CCF for 2015, and $4.56 per CCF for 2016, which includes the Delta Charge for all water delivered monthly based on total meter readings or as may be otherwise determined by Zone 7.

FOURTH, for Fire and Standby services a service charge of $144.00 per month for 2015, and $148.00 per month for 2016 for the connection; and

There shall be no charge for water used for extinguishing accidental fires. All other water used shall be charged for, based on metered amounts, at $4.26 per CCF for 2015, and $4.56 per CCF for 2016, which includes the additional Delta charge.

FIFTH, for In-Lieu water services, a water rate of $112 for calendar year 2015 and authorize the General Manager of Zone 7 of Alameda County Flood Control and Water Conservation District to offer to any treated water contractor who takes delivery of treated water from Zone 7 in lieu of pumping groundwater per their Groundwater Pumping Quota should appropriate circumstances be identified; and

Zone 7 may offer this rate to its treated water contractors who have a Groundwater Pumping Quota (GPQ) (including well pumping capacity) if sufficient surface water is available and if it is deemed financially and operationally prudent; and, In-Lieu quantities will be limited to each contractor's GPQ plus any accumulated carry-over.

BE IT FURTHER RESOLVED that said rate schedules for treated water service as adopted herein shall be effective on January 1, 2015 and shall end on the next effective date for such water rates as adopted by the Board.

BE IT FURTHER RESOLVED that the General Manager of Zone 7 of the Alameda County Flood Control and Water Conservation District is hereby authorized to continue to enter into, renew, modify and otherwise administer all Temporary Treated Water service agreements in accordance with said rate schedules adopted herein and as may be modified from time to time.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District on October 15, 2014,

By______________________________________
President, Board of Directors

Revised Resolution – Proposal B

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Adoption of the Treated Water Service Rates for 2015 & 2016 (3%-3%)

BE IT RESOLVED by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District that the following rate schedule for Treated Water, Recharge, Temporary Treated Water, Fire and Standby and In-Lieu services be adopted:

BE IT FURTHER RESOLVED that the 2015 & 2016 Delta Charge shall be $6 per acre-foot for all categories of Zone 7's water rates and the Board does hereby reserve the right to, by resolution, increase, decrease or eliminate this Delta Charge at any time based on actual experience.

FIRST, for Treated Water service a service charge of $144.00 per month per metered service for 2015, and $148.00 per month per metered service for 2016; and

A delivery charge, based on $999 per acre-foot for 2015, and $1,029 per acre-foot for 2016 in 100 cubic feet (CCF) units for all metered water delivered to each customer per month, which includes the Delta Charge as follows:

	2015	2016
For the first 3,300 cubic feet	$4.097 per CCF	$4.220 per CCF
For the next 30,000 cubic feet	$3.280 per CCF	$3.379 per CCF
For the next 300,000 cubic feet	$2.615 per CCF	$2.694 per CCF
For all over 333,300 cubic feet	$2.294 per CCF	$2.363 per CCF

SECOND, for Recharge services a recharge fee of $702 per acre-foot for 2015, which includes the Delta charge, which is the unit cost of replenishment water to achieve full cost of recovery when it is necessary to replenish the main groundwater basin when water is pumped in excess of a retailers Groundwater Pumping Quota or Independent Quota.

THIRD, for Temporary Treated Water service an initial service establishment charge of $144.00 per turnout for 2015, and $148.00 per turnout for 2016 or each new direct connection to the Zone system; and

A monthly meter service charge of $21.00 per turnout for 2015 & 2016; and

A charge of $4.10 per CCF for 2015, and $4.22 per CCF for 2016, which includes the Delta Charge for all water delivered monthly based on total meter readings or as may be otherwise determined by Zone 7.

FOURTH, for Fire and Standby services a service charge of $144.00 per month for 2015, and $148.00 per month for 2016 for the connection; and

There shall be no charge for water used for extinguishing accidental fires. All other water used shall be charged for, based on metered amounts, at $4.10 per CCF for 2015, and $4.22 per CCF for 2016, which includes the additional Delta charge.

FIFTH, for In-Lieu water services, a water rate of $112 for calendar year 2015 and authorize the General Manager of Zone 7 of Alameda County Flood Control and Water Conservation District to offer to any treated water contractor who takes delivery of treated water from Zone 7 in lieu of pumping groundwater per their Groundwater Pumping Quota should appropriate circumstances be identified; and

Zone 7 may offer this rate to its treated water contractors who have a Groundwater Pumping Quota (GPQ) (including well pumping capacity) if sufficient surface water is available and if it is deemed financially and operationally prudent; and, In-Lieu quantities will be limited to each contractor's GPQ plus any accumulated carry-over.

BE IT FURTHER RESOLVED that said rate schedules for treated water service as adopted herein shall be effective on January 1, 2015 and shall end on the next effective date for such water rates as adopted by the Board.

BE IT FURTHER RESOLVED that the General Manager of Zone 7 of the Alameda County Flood Control and Water Conservation District is hereby authorized to continue to enter into, renew, modify and otherwise administer all Temporary Treated Water service agreements in accordance with said rate schedules adopted herein and as may be modified from time to time.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District on October 15, 2014,

By______________________________________
President, Board of Directors

Revised Resolution – Proposal C

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Adoption of the Treated Water Service Rates for 2015 & 2016 (5% plus a 12-month 2% Drought Surcharge for each year)

BE IT RESOLVED by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District that the following rate schedule for Treated Water, Recharge, Temporary Treated Water, Fire and Standby and In-Lieu services be adopted:

BE IT FURTHER RESOLVED that the 2015 & 2016 Delta Charge shall be $6 per acre-foot for all categories of Zone 7's water rates and the Board does hereby reserve the right to, by resolution, increase, decrease or eliminate this Delta Charge at any time based on actual experience.

FIRST, for Treated Water service a service charge of $144.00 per month per metered service for 2015, and $148.00 per month per metered service for 2016; and

A delivery charge, based on $1,019 per acre-foot for 2015, and $1,070 per acre-foot for 2016 in 100 cubic feet (CCF) units for all metered water delivered to each customer per month, which includes the Delta Charge as follows:

	2015	**2015 Drought Surcharge**	**2016 (per CCF)**	**2015 Drought Surcharge**
For the first 3,300 cubic feet	$4.178 per CCF	$0.082 per CCF	$4.387 per CCF	$0.086 per CCF
For the next 30,000 cubic feet	$3.345 per CCF	$0.066 per CCF	$3.513 per CCF	$0.069 per CCF
For the next 300,000 cubic feet	$2.667 per CCF	$0.052 per CCF	$2.800 per CCF	$0.055 per CCF
For all over 333,300 cubic feet	$2.339 per CCF	$0.046 per CCF	$2.456 per CCF	$0.048 per CCF

SECOND, for Recharge services a recharge fee of $702 per acre-foot for 2015, which includes the Delta charge, which is the unit cost of replenishment water to achieve full cost of recovery when it is necessary to replenish the main groundwater basin when water is pumped in excess of a retailers Groundwater Pumping Quota or Independent Quota.

THIRD, for Temporary Treated Water service an initial service establishment charge of $144.00 per turnout for 2015, and $148.00 per turnout for 2016 or each new direct connection to the Zone system; and

A monthly meter service charge of $21.00 per turnout for 2015 & 2016; and

A charge of $4.18 per CCF for 2015 plus $0.08 per CCF for a 2% Drought Surcharge for a total charge of $4.26, and $4.39 per CCF for 2016 plus $0.08 per CCF for a 2% Drought Surcharge for a total charge of $4.47, which includes the Delta Charge for all water delivered monthly based on total meter readings or as may be otherwise determined by Zone 7.

FOURTH, for Fire and Standby services a service charge of $144.00 per month for 2015, and $148.00 per month for 2016 for the connection; and

There shall be no charge for water used for extinguishing accidental fires. All other water used shall be charged for, based on metered amounts, at $4.18 per CCF for 2015 plus $0.08 per CCF for a 2% Drought Surcharge for a total charge of $4.26, and $4.39 per CCF for 2016 plus $0.08 per CCF for a 2% Drought Surcharge for a total charge of $4.47.

FIFTH, for In-Lieu water services, a water rate of $112 for calendar year 2015 and authorize the General Manager of Zone 7 of Alameda County Flood Control and Water Conservation District to offer to any treated water contractor who takes delivery of treated water from Zone 7 in lieu of pumping groundwater per their Groundwater Pumping Quota should appropriate circumstances be identified; and

Zone 7 may offer this rate to its treated water contractors who have a Groundwater Pumping Quota (GPQ) (including well pumping capacity) if sufficient surface water is available and if it is deemed financially and operationally prudent; and, In-Lieu quantities will be limited to each contractor's GPQ plus any accumulated carry-over.

BE IT FURTHER RESOLVED that said rate schedules for treated water service as adopted herein shall be effective on January 1, 2015 and shall end on the next effective date for such water rates as adopted by the Board.

BE IT FURTHER RESOLVED that said Drought Surcharge rates for treated water service as adopted herein for 2015 shall be effective on January 1, 2015 and shall end December 31, 2015 and Drought Surcharge rates for treated water service as adopted herein for 2016 shall be effective on January 1, 2016 and shall end December 31, 2016.

BE IT FURTHER RESOLVED that the General Manager of Zone 7 of the Alameda County Flood Control and Water Conservation District is hereby authorized to continue to enter into, renew, modify and otherwise administer all Temporary Treated Water service agreements in accordance with said rate schedules adopted herein and as may be modified from time to time.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District on October 15, 2014,

By______________________________________
President, Board of Directors

7% water rate increase for two years

Calendar Year	2013	2014	2015	2016
Water Rate per AF	$945	$970	$1,038	$1,111
Volume of Water Sales (AF)	41,476	28,911	37,038	39,056

Fund 100 - Water Enterprise	**FY12/13 Audited Actual**	**FY13/14 Unaudited Actual**	**FY14/15 Discounted Budget**	**FY15/16 Forecast Budget**	**FY16/17 Forecast Budget**
Beginning Fund Balance:	**27,289,110**	**31,495,970**	**30,634,290**	**19,908,337**	**18,800,886**
Sources of Funds					
Treated Water Revenue	37,494,692	34,965,126	33,124,468	41,071,041	44,850,477
Other Revenue	1,974,821	1,485,166	783,302	918,507	930,113
Total Sources	39,469,513	36,450,292	33,907,770	41,989,548	45,780,590
Uses of Funds					
Operating Expenses	28,662,653	28,811,973	31,809,799	32,596,999	31,786,500
Transfer to Fund 120	6,600,000	8,500,000	12,823,924	10,500,000	12,661,760
Total Uses	35,262,653	37,311,973	44,633,723	43,096,999	44,448,260
Ending Fund Balance:	**31,495,970**	**30,634,290**	**19,908,337**	**18,800,886**	**20,133,216**
Net Additions/(Uses) of Reserves	4,206,860	(861,681)	(10,725,953)	(1,107,451)	1,332,330
Reserves Balances(End of Period)					
Operating Reserve	8,308,044	7,182,825	8,067,130	7,823,280	7,628,760
Drought Contingency Reserve	5,861,673	5,861,673	0	0	0
Emergency Reserve	4,113,026	4,197,380	4,353,940	4,492,920	4,666,820
Rate Stabilization Reserve	13,213,227	13,392,411	7,487,266	6,484,686	7,837,635
Total	31,495,970	30,634,290	19,908,337	18,800,886	20,133,216

Assumptions:

The Board authorized a significant use of reserves in the FY 14/15 budget.

Drought is a one-year event (2014).

Post drought recovery is based on the 1990 drought which was two years, with the first year 14% less than normal and the second year at pre-drought level.

Notes:

For purposes of calculating reserves for this rate model, actual and discounted budget numbers in the rate model are used rather than the adopted budget numbers.

This option uses $1M of the Rate Stabilization reserves from FY 14/15 to FY 15/16 and then adds $1.35M of the Rate Stabilization reserves from FY 15/16 to FY 16/17 for a net inccrease of $0.35M.

Operating Expenses:

All expense categories were reviewed to determine an appropriate discounted budgeted amount.

3% Water Rate Increase for 2 years/transfer for AMP $7M

Calendar Year	2013	2014	2015	2016
Water Rate per AF	$945	$970	$999	$1,029
Volume of Water Sales (AF)	41,476	28,911	37,038	39,056

Fund 100 - Water Enterprise	**FY12/13 Audited Actual**	**FY13/14 Unaudited Actual**	**FY14/15 Discounted Budget**	**FY15/16 Forecast Budget**	**FY16/17 Forecast Budget**
Beginning Fund Balance:	**27,289,110**	**31,495,970**	**30,634,290**	**19,258,321**	**19,415,239**
Sources of Funds					
Treated Water Revenue	37,494,692	34,965,126	32,474,452	38,835,410	41,577,542
Other Revenue	1,974,821	1,485,166	783,302	918,507	930,113
Total Sources	39,469,513	36,450,292	33,257,754	39,753,917	42,507,655
Uses of Funds					
Operating Expenses	28,662,653	28,811,973	31,809,799	32,596,999	31,786,500
Transfer to Fund 120	6,600,000	8,500,000	12,823,924	7,000,000	12,661,760
Total Uses	35,262,653	37,311,973	44,633,723	39,596,999	44,448,260
Ending Fund Balance:	**31,495,970**	**30,634,290**	**19,258,321**	**19,415,239**	**17,474,634**
Net Additions/(Uses) of Reserves	4,206,860	(861,681)	(11,375,969)	156,918	(1,940,605)
Reserves Balances(End of Period)					
Operating Reserve	8,308,044	7,182,825	8,067,130	7,823,280	7,628,760
Drought Contingency Reserve	5,861,673	5,861,673	0	0	0
Emergency Reserve	4,113,026	4,197,380	4,353,940	4,492,920	4,666,820
Rate Stabilization Reserve	13,213,227	13,392,411	6,837,250	7,099,039	5,179,053
Total	31,495,970	30,634,290	19,258,321	19,415,239	17,474,634

Assumptions:

The Board authorized a significant use of reserves in the FY 14/15 budget.

Drought is a one-year event (2014).

Post drought recovery is based on the 1990 drought which was two years, with the first year 14% less than normal and the second year at pre-drought level.

Notes:

For purposes of calculating reserves for this rate model, actual and discounted budget numbers in the rate model are used rather than the adopted budget numbers.

This option addes $0.3M to the Rate Stabilization reserves from FY 14/15 to FY 15/16 and then uses $1.9M of the Rate Stabilization reserves from FY 15/16 to FY 16/17 for a net decrease of $1.6M.

Operating Expenses:

All expense categories were reviewed to determine an appropriate discounted budgeted amount.

5% and a 2% Drought Surcharge for 2015 and 2016

Calendar Year	2013	2014	2015	2016
Water Rate per AF	$945	$970	$1,019	$1,070
Proposed Drought Surcharge per AF	n/a	n/a	$20	$21
Water Rate and Drought Surcharge per AF			$1,039	$1,091
Volume of Water Sales (AF)	41,476	28,911	37,038	39,056

Fund 100 - Water Enterprise	**FY12/13 Audited Actual**	**FY13/14 Unaudited Actual**	**FY14/15 Discounted Budget**	**FY15/16 Forecast Budget**	**FY16/17 Forecast Budget**
Beginning Fund Balance:	**27,289,110**	**31,495,970**	**30,634,290**	**19,925,005**	**18,486,422**
Sources of Funds					
Treated Water Revenue	37,494,692	34,965,126	33,141,136	40,739,909	43,665,106
Other Revenue	1,974,821	1,485,166	783,302	918,507	930,113
Total Sources	39,469,513	36,450,292	33,924,438	41,658,416	44,595,219
Uses of Funds					
Operating Expenses	28,662,653	28,811,973	31,809,799	32,596,999	31,786,500
Transfer to Fund 120	6,600,000	8,500,000	12,823,924	10,500,000	12,661,760
Total Uses	35,262,653	37,311,973	44,633,723	43,096,999	44,448,260
Ending Fund Balance:	**31,495,970**	**30,634,290**	**19,925,005**	**18,486,422**	**18,633,381**
Net Additions/(Uses) of Reserves	4,206,860	(861,681)	(10,709,285)	(1,438,583)	146,959
Reserves Balances(End of Period)					
Operating Reserve	8,308,044	7,182,825	8,067,130	7,823,280	7,628,760
Drought Contingency Reserve	5,861,673	5,861,673	0	0	0
Emergency Reserve	4,113,026	4,197,380	4,353,940	4,492,920	4,666,820
Rate Stabilization Reserve	13,213,227	13,392,411	7,503,934	6,170,222	6,337,800
Total	31,495,970	30,634,290	19,925,005	18,486,422	18,633,381

Assumptions:

The Board authorized a significant use of reserves in the FY 14/15 budget.

Drought is a one-year event (2014).

Post drought recovery is based on the 1990 drought which was two years, with the first year 14% less than normal and the second year at pre-drought level.

Notes:

For purposes of calculating reserves for this rate model, actual and discounted budget numbers in the rate model are used rather than the adopted budget numbers.

This option uses $1.33M of the Rate Stabilization reserves from FY 14/15 to FY 15/16 and then adds $0.17M of the Rate Stabilization reserves from FY 15/16 to FY 16/17 for a net deccrease of $1.16M.

Operating Expenses:

All expense categories were reviewed to determine an appropriate discounted budgeted amount.

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING DIVISION: ADMINISTRATIVE SERVICES
CONTACT PERSON: TOM HUGHES/TAMARA BAPTISTA

AGENDA DATE: October 15, 2014 ITEM NO. **11**

SUBJECT: **Untreated Water Rates for 2015**

SUMMARY:

- The Untreated Water Rate is essentially a pass-through of the cost of imported water, supplemental water purchases, Bay-Delta related costs and an administrative fee.
- The proposed rate of $130 acre-foot (AF), which includes a $6 per AF Delta charge, represents an increase of approximately 18% compared to the current rate.
- The following table shows all of the proposed untreated water rates for calendar year 2015:

2015 Proposed Rates	A/F
Proposed untreated water rate	$130
Proposed temporary untreated water rate	$509
Proposed non-scheduled untreated water rate	$509
Proposed surplus untreated water	$250
Delta charge	$6

FUNDING:

The proposed rates determine the amount of revenue from untreated water sales as a part of operating the Water Enterprise (Fund 52), which equates to approximately $650,000 if the projected demand of 5,000 AF is realized.

RECOMMENDED ACTION:

Adopt the attached resolution to approve, for 2015, an Untreated Water rate of $130/AF, a Temporary Untreated Water rate of $509/AF, a Non-Scheduled Untreated Water rate of $509/AF, and a Surplus Untreated Water rate of $240/AF.

ATTACHMENTS:

Background Memo
Untreated Water Calculation
Resolution
Untreated Water Rate History

M E M O R A N D U M

DATE: October 15, 2014
TO: Jill Duerig, General Manager
FROM: Tamara Baptista, Financial & Systems Services Manager
Tom Hughes, Assistant General Manager, Administrative Services

SUBJECT: Untreated Water Rate Schedules for 2015

SUMMARY:

The following table shows all of the proposed untreated water rates for calendar year 2015:

2015 Proposed Rates	A/F
Proposed untreated water rate	$130
Proposed temporary untreated water rate	$509
Proposed non-scheduled untreated water rate	$509
Proposed surplus untreated water	$250
Delta charge	$6

BACKGROUND/DISCUSSION:

Untreated – The Untreated Water Rate is based on the cost of imported water, supplemental water purchases, Bay-Delta related costs and an administrative fee. The administrative fee is actual staff time spent on administering the untreated water program, including the contracts. The labor is calculated based on the number of hours individual staff work on untreated water-related projects divided by the volume of water. The proposed rate of $130 per AF, which includes a $6 per AF Delta charge, represents an increase of approximately 18% compared to the current rate.

Temporary Untreated – The need for temporary services results from the inability of customers to obtain water in the outlying areas of the valley. The use of these services is limited. The temporary untreated water rate is based on the estimated cost of imported water and supplemental water purchases divided by the estimated customer deliveries minus the estimated available water from the Del Valle reservoir plus an administrative cost component based on actual staff costs. The proposed rate for temporary untreated water is $509 per AF or $1.56 per 1,000 gallons.

Non-Scheduled Untreated Water – Non-scheduled water is all untreated water deliveries exceeding scheduled deliveries by more than 10% in any year. It is based upon the temporary untreated water rate. The proposed rate for non-scheduled untreated water is $509 per AF.

Surplus Untreated – Surplus untreated water deliveries are available only in years when the supplies exceed our customers' demands. Tentative surplus water delivery requests are submitted to Zone 7 by March 15 of each year; availability of surplus water is determined in April; and actual deliveries are announced in May. The rate fluctuates depending on the source of the surplus. However, in order to establish a rate, staff is recommending that the rate for 2014 be maintained at the Byron-Bethany Irrigation District water transfer cost, the cost of transporting water, and the Delta charge of $6 per AF. The proposed rate is $240 per AF.

RECOMMENDED ACTION:

Adopt the attached resolution to approve, for 2015, an Untreated Water rate of $130/AF, a Temporary Untreated Water rate of $509/AF, a Non-Scheduled Untreated Water rate of $509/AF, and a Surplus Untreated Water rate of $240/AF.

Zone 7 Water Agency Untreated Water Rate Calculation for 2015		
1) Volume of Treated and Untreated Water to be Delivered to Contractors (in AF)		**42,038**
Water Costs	**Dollar Amt**	**per AF**
2. Yuba Dry Year Water Purchase Program	$90,000	$2
3. Cawelo Recovery	$1,440,000	$34
4. Semitropic Recovery	$786,940	$19
5. Del Valle Water Rights	$3,000	$0
6. Unit Fixed Cost (2+3+4+5) ÷ (1)	$2,319,940	$55
7. SWP Transportation Variable Unit Cost	$2,375,816	$57
8. Subtotal Unit Cost (6+7)	$4,695,756	$112
9. Zone 7 Administrative costs	$530,097	$13
10. Delta Charge	$252,228	$6
11. Total Unit Cost (8+9+10) rounded to nearest dollar)	$5,478,080	$130

Zone Water Agency Temporary Untreated Water Rate Calculation for 2015	
1. Volume of Treated & Untreated Water estimated to be delivered to Contractors (A/F)	42,038
2. Amount Available from Del Valle Reservoir	0
3. Net Volume of Treated & Untreated Water estimated to be delivered (A/F)	42,038
Estimated Expenses	***Amount***
4. a) State Water Supply	$15,775,506
b) Off-Aqueduct Power Facilities	$141,320
c) Variable Transportation Water Charges	$2,375,816
d) Cawelo Recovery	$1,440,000
e) Semitropic Recovery	$786,940
f) Yuba Dry Year Purchase Program	$90,000
5. Total Expenses	$20,609,582
6. Unit Cost per AF(5 ÷ 3)	$490
7. Zone 7 Staff costs per AF	$13
8. Delta Charge per AF	$6
9. Total Unit Cost with Delta Charge (6+7+8) in $ per AF	$509
Or in $ per 1,000 gallons	$1.56

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Adoption of the Untreated Water Rates for 2015

BE IT RESOLVED by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District that the following rate schedule for Untreated Water, Temporary Untreated Water, Non-Scheduled Untreated, and Surplus Untreated Water Services, be adopted:

FIRST, for Untreated Water Service, a DELIVERY CHARGE of $130 per acre-foot for all metered water delivered to each customer per month, which includes the Bay-Delta Charge.

SECOND, for Temporary Untreated Water Service, an initial service establishment charge of $125.00 per turnout for each new direct connection to the Zone system or a system supplying the Zone system; and

A monthly service charge of $21.00 per turnout; and

A charge of $1.56 per 1000 gallons for temporary untreated water service, which includes the additional Bay-Delta charge, for all water delivered monthly based on total meter readings or as may be otherwise determined by Zone 7.

THIRD, for Non-Scheduled Untreated Service, a delivery charge of $509 per acre-foot for all non-scheduled untreated water delivered to each customer which includes the Bay-Delta charge.

FOURTH, for Surplus Untreated Water Service, a delivery charge of $240 per acre-foot for all surplus untreated water delivered to each customer which includes the Bay-Delta charge.

BE IT FURTHER RESOLVED that said rate schedule for Untreated Water Services, collectively, shall be effective on January 1, 2015, and shall end on the next effective date for such water rates as adopted by the Board.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

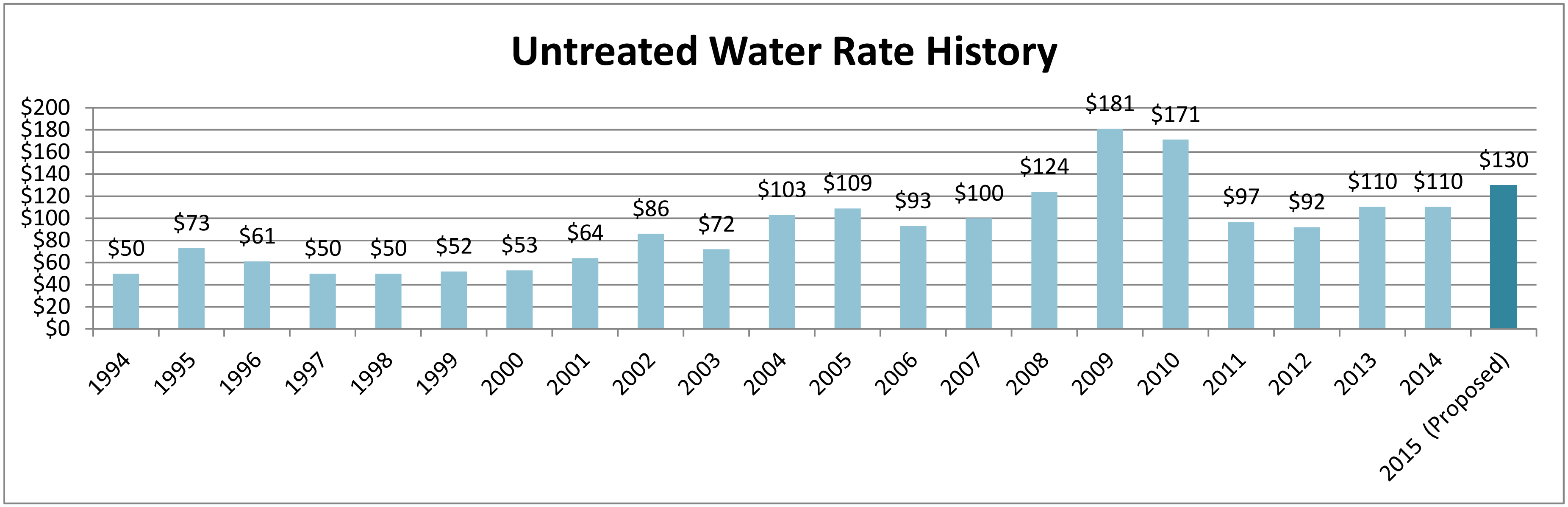
NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on October 15, 2014.

By____________________________________
President, Board of Directors



Untreated Water Rate History
$200
$180
$160
$140
$120
$100
$80
$60
$40
$20
$0
$50
$73
$61
$50
$50
$52
$53
$64
$86
$72
$103
$109
$93
$100
$124
$181
$171
$97
$92
$110
$110
$130
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015 (Proposed)

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: ADMINISTRATIVE SERVICES
CONTACT: JAVIA GREEN

AGENDA DATE: October 15, 2014 ITEM NO. **12**

SUBJECT: Proposed 2015 Municipal & Industrial Water Connection Fee

SUMMARY:

- Zone 7 established the Municipal & Industrial (M&I) Connection Fee Program in 1972 to assess water connection fees to new development in order to fund water system expansion projects required to serve additional water demands from new development.

- The Board resolved with the adoption of the 2002 Connection Fee (Resolution No. 02-2450), that the basic fee be updated annually based on the Engineering News Record Construction Cost Index (ENR CCI), or as warranted to keep current with current plans and projections based on periodic reviews. In 2013, the Board adopted Resolution No. 14-4316 which changed the maximum update interval for comprehensively evaluating the connection fee from every three years to every five years.

- One of these periodic reviews was performed in 2011. Zone 7 staff determined that the future funding needs of the program were in-line with the existing connection fees. The review recommended annual increases based on ENR CCI to account for the impact of inflation on future projects.

- For the 2015 fees, staff recommends adjusting the current fees to keep pace with inflation, based on the change in the ENR CCI from September 2013 to September 2014, a 3.33% increase.

Effective Period	Alameda County (per DUE)	Dougherty Valley (per DUE)
Effective January 1, 2014	$24,030	$22,240
Effective January 1, 2015 **(3.33% increase)**	$24,830	$22,980

FUNDING:

Water connection fee revenue accrues to Fund 130 – Water Expansion.

RECOMMENDED ACTION:

Adopt the attached resolution.

ZONE 7

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

CONNECTION FEES FOR THE ZONE 7 AND DOUGHERTY VALLEY SERVICE AREAS EFFECTIVE JANUARY 1, 2015

WHEREAS, a Water Connection Fee Program for Zone 7 of the Alameda County Flood Control and Water Conservation District (Zone 7) was adopted by District Ordinance No. FC 72-1 on January 18, 1972 and was subsequently amended by Ordinances Nos. FC 77-2, FC 86-136, and FC 0-91-68; and

WHEREAS, said Ordinances provide that the water connection fee is subject to periodic review and modification at the discretion of the Board of Directors of Zone 7 (Board); and the Board resolved with the 2002 amended connection fee (Resolution No. 02-2450) that the basic fee be updated, at a minimum, based on the Engineering News Record Construction Cost Index, or other appropriate index on a yearly basis or as otherwise warranted, to keep current with inflation and that the connection fee program be comprehensively reevaluated every three years or sooner as needed; and

WHEREAS, in 2013, the Board adopted Resolution No. 14-4316 which changed the maximum update interval for comprehensively evaluating the connection fee from every three years to every five years; and

WHEREAS, such comprehensive review was completed in 2011.

BE IT RESOLVED that the Board hereby amends the basic fee for a standard 5/8" meter, as specified in said Ordinances, within the Zone 7 service area to $24,830 and to $22,980 within the Dougherty Valley Service Area. For meter types larger than the 5/8" basic meter, the basic charge shall be multiplied by a fee factor as described in Zone 7's Ordinance No. FC 0-91-68.

BE IT FURTHER RESOLVED that said basic fee as amended herein shall become effective January 1, 2015, and remain in effect until such time as the Board establishes a new basic fee for Zone 7.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District on October 15, 2014.

By_______________________________
President, Board of Directors

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: Integrated Planning/Engineering
CONTACT: Carol Mahoney/Dennis Gambs

AGENDA DATE: October 15, 2014 ITEM NO. **13**

SUBJECT: Agreements Associated With the El Charro Specific Plan Agreement

SUMMARY:

- An Agreement between the City of Livermore and Zone 7 for the El Charro Specific Plan Area Flood Protection Improvements (ECSP Agreement) was authorized by the Board on December 15, 2010.
- The ECSP Agreement provided ten million dollars to the City for flood protection improvements and other elements. Nine million dollars was transferred up-front to facilitate construction. A total of one million dollars was retained by Zone 7. The final payment of $500,000 is still retained until all elements of the agreement are fulfilled.
- During 2011 through 2013, construction of various elements of the ECSP Agreement that further the flood protection goals of Zone 7's Stream Management Master Plan (SMMP) were completed by the City and/or the developer.
- As part of the ECSP Agreement, Zone 7 and the City have tentatively drafted:
  - Floodway/Floodplain Agreement that would allow specific parcels that are presently in the floodplain in and around the City's Las Positas Golf Course to perpetually remain in the floodplain. The agreement is in lieu of an easement due to airport restrictions;
  - Maintenance of Mitigation Area Agreement that would provide for maintenance of the Habitat Mitigation, Restoration and Monitoring area as required by the San Francisco Regional Water Quality Control Board;
  - Covenant and Deed Restriction to be placed on the mitigation area.
- The execution of these agreements and recordation of the Covenant and Deed Restriction will fulfill the final three outstanding elements from the ECSP Agreement and allow release of final payment.

FUNDING: Funding for the projects under the ECSP Agreement is from Fund 210 – Flood Protection and Storm Water Drainage and Fund 200 – General Fund/Flood Control.

RECOMMENDED ACTION: Adopt Resolutions:

- Authorizing the General Manager to negotiate and execute the Floodway/Floodplain and Maintenance Mitigation Area Agreements between Zone 7 and the City of Livermore; and
- Authorizing the General Manager to negotiate and finalize the Covenant and Deed Restriction with the Regional Water Quality Control Board and requesting the Board of Supervisors to approve the resulting Covenant and Deed Restriction.

ATTACHMENTS:

- Memo Providing Additional Background and Discussion of Agenda Item
- Draft Floodway/Floodplain Agreement
- Draft Maintenance Mitigation Area Agreement
- Draft Covenant and Deed Restriction
- Resolutions

Interoffice Memo

Date: October 15, 2014
To: Jill Duerig, General Manager
From: Carol Mahoney, Integrated Planning Manager
Subject: Agreements Associated With the El Charro Specific Plan Agreement

The following provides additional background and discussion of the above-referenced agenda item.

BACKGROUND:

In late 2006, the City of Livermore (City) came to Zone 7 to discuss their plans for development in the vicinity of the Chain of Lakes as a part of their El Charro Specific Plan (ECSP). Around the same time, Zone 7 staff began examining the projects in the recently adopted Stream Management Master Plan (SMMP), especially those associated with the Chain of Lakes. Meetings between City and Zone 7 staff focused on identifying collaborative opportunities. Staff worked to incorporate the goals of the SMMP projects R.5-2 and R.5-3 with the needs and planned improvements of the City. While the City's project did not directly result in stormwater flow into the Chain of Lakes, it did provide a cost-effective alternative to Project R.5-3 as originally proposed in the SMMP.

Through extensive negotiations, Zone 7 and the City identified cost elements for areas of mutual benefit, which encompassed flood protection improvements and properties that may have strategic value to future projects. The product of these discussions was the partnership agreement that was brought before the Board for consideration in December 2010, and finalized and executed by the General Manager in April 2011, as Agreement No. A11-83-LIV: *Agreement Between City of Livermore and Zone 7 of Alameda County Flood Control and Water Conservation District for the El Charro Specific Plan Area Flood Protection Improvements* (ECSP Agreement). The provisions of the agreement set forth specific improvements that were to be constructed and subsequent agreements that were to be negotiated and executed during and after construction. It was agreed that Zone 7's contribution for these flood protection improvements would be $10,000,000. The ten million dollars was divided into payments to facilitate construction and recognize substantial completion. Nine million dollars was transferred to the City up-front to allow for ease of payment during construction. The remaining one million dollars was retained by Zone 7 until final inspection and final completion. Zone 7 received notice from the City of final inspection and authorized payment of half of the retention ($500,000). The final payment of $500,000 is still retained by Zone 7 until all elements of the ECSP Agreement are fulfilled including outstanding agreements for deed restrictions and maintenance.

For background purposes, a list of the objectives associated with the ECSP Agreement are listed below. The Floodway/Floodplain and Maintenance Mitigation Area Agreement as well as the Covenant and Deed Restriction are three elements of this overarching ECSP Agreement.

<u>OBJECTIVES OF ECSP AGREEMENT:</u>

1) Provide local drainage for development as well as implement portions of Zone 7's Stream Management Master Plan (SMMP) associated with flood water detention, for the purposes of ultimately leading to future conveyance into the Chain of Lakes.

2) Continue the use of the Golf Course as a floodplain for the conveyance of stormwaters in perpetuity.
3) Provide a financial mechanism for cost sharing between the City and Zone 7 for the improvements described in the agreement.
4) Provide a description of the flood protection improvements that will be constructed for mutual benefit.
5) Provide a description of mitigation measures, monitoring and maintenance responsibilities for the improvements described in the agreement.

DISCUSSION:

During the development of Zone 7's SMMP, the ECSP area was identified by the City as a location of economic interest because of its proximity to the I-580 corridor and the Livermore Airport. Projects were anticipated that would remove all or some of the area from the existing Arroyo Las Positas floodplain. In the SMMP, Project R.5-3 envisioned a widened Arroyo Las Positas through the golf course area and replacing the existing fish ladder with an at-grade channel. The modified channel was to have the capacity to carry 100-year ultimate flows and contain a diversion with side weir and flow control structure directing water into a diversion channel that would convey flood flows into the Chain of Lakes for temporary detention. Once the storm had passed, a pump station would then pump water back into the Arroyo Mocho channel (near its confluence with Arroyo Las Positas), a portion of which would need to be widened to handle bypass and pump-back flows. In contrast, the ECSP proposed to retain the Las Positas Golf Course as a part of the natural floodplain, and maintain its capacity through construction of berms, in lieu of widening the channel in this area.

To facilitate the development of the ECSP area, Zone 7 requested an easement be placed over those parcels that were in the existing floodplain of the Arroyo Las Positas. The Floodway/Floodplain Agreement was requested by the City as an alternative due to restrictions on the golf course and airport parcels from the Federal Aviation Administration (FAA). The City has agreed to record the Floodway/Floodplain Agreement so that the information regarding floodplain use will run with the land. The Floodway/Floodplain Agreement was drafted to ensure that the parcels in the floodplain would remain so in perpetuity, thereby providing for flood protection of the surrounding development.

To obtain approvals from the San Francisco Bay Regional Water Quality Control Board for the ECSP, the City was required to construct a mitigation/restoration area along the Arroyo Las Positas. The City agreed to maintain the mitigation area for a period of five (5) years after all the state and federal environmental agencies accepted the mitigation measures within the mitigation area. After that date, Zone 7 will resume maintenance responsibilities of the mitigation area. Within thirty (30) days of the transfer of the maintenance responsibilities of the mitigation area from the City of Livermore to Zone 7 and annually thereafter, the City shall pay to Zone 7 the amount of $89,339.00 for maintenance, as adjusted on the first anniversary date of the Effective Date of ECSP Agreement, and annually thereafter, based on the Consumer Price Index, as of August 1, 2011, for All Urban Consumers for the San Francisco-Oakland-San Jose, California area. Zone 7 also agreed to a deed restriction, which prevents conversion of the area containing habitat improvements to other uses and requires the City of Livermore to maintain the mitigation area during the mitigation maintenance period.

The legal title to the property vests with the Alameda County Flood Control and Water Conservation District. As the legal owner of the property over which the deed restriction is to be placed, the Board of Supervisors of the Alameda County Flood Control and Water Conservation District is required to approve the deed restriction. To that end, the Zone 7 Board of Directors would request and authorize the District Board to approve the deed restriction.

Funding for the projects under the ECSP Agreement is provided from Fund 200 – General Fund/Flood Control and Fund 210 – Flood Protection and Storm Water Drainage.

Staff recommends adopting the attached resolutions: 1) Authorizing the General Manager to negotiate and execute the Floodway/Floodplain and Maintenance Mitigation Area Agreements between Zone 7 and the City of Livermore; and 2)Authorizing the General Manager to negotiate and finalize the Covenant and Deed Restriction with the Regional Water Quality Control Board and requesting and requesting the Board of Supervisors of the Alameda County Flood Control and Water Conservation District to approve the Covenant and Deed Restriction.

**AGREEMENT Between
CITY OF LIVERMORE and
ALAMEDA COUNTY FLOOD CONTROL and
WATER CONSERVATION DISTRICT (ZONE 7)
FOR CONTINUED USE OF CITY OF LIVERMORE LAND FOR FLOODWAY & FLOODPLAIN**

THIS AGREEMENT made and entered into this _____ day of ___________, 2014, by and between the City of Livermore, a California municipal corporation ("City"), and Alameda County Flood Control and Water Conservation District, a body corporate and politic ("Zone 7").

RECITALS

A. City of Livermore is the local planning authority vested with the responsibility to provide for the orderly development of the City of Livermore consistent with its General Plan and those of other municipal agencies in the region; and

B. City owns certain real property situated in the City of Livermore, County of Alameda, State of California more particularly described as that property adjacent to Arroyo Las Positas and also described as APN 904-0001-001-05, 06, 07 & 09; 904-0001-003-01, 21 & 22; 904-0001-007-25; 904-0001-009-01 & 02; 904-0001-010-00; 904-0001-011-01; 904-0001-012-00; 904-0002-005-00; 904-0002-006-00; 904-0003-001-01 & 02; 904-0004-006-00; 904-0004-051-00; 904-0004-052-00; and 904-0004-056-00 as shown on Exhibit A attached.; and

C. The Property is located within a natural floodplain and is used by City as a municipal golf course and airport; and

D. Zone 7 is the local agency responsible for flood protection and the management of regional storm water drainage in the Livermore-Amador Valley (Valley). Through its regional flood protection system, Zone 7 seeks to minimize risks of flood inundation during 100-year storm events to ensure that public health and safety are protected; and

E. It is the intention of the parties hereto to enter into an agreement to allow the Property to be perpetually utilized as a floodway/floodplain.

NOW, THEREFORE, City and Zone 7 hereby agree that the recitals set forth herein are true and correct and further agree as follows:

1. The City hereby dedicates the Property, in perpetuity, to serve as a floodway/floodplain to, detain, store, and convey floodwater and storm water drainage.

2. City is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions and rights of way of record, if any, as of the date of this agreement and those described in Exhibit B. The City retains and reserves all rights to occupy and use the Property so long as the occupation and use does not interfere with the use of the property as a floodway/floodplain.

3. City shall be responsible for maintaining the Property as a floodway/floodplain as delineated in Section D of the *Agreement Between City of Livermore and Zone 7 of Alameda County Flood Control and Water Conservation District for the El Charro Specific Plan Area Flood Protection Improvements,* referenced hereto and incorporated herein.

4. CITY agrees to defend, indemnify and hold harmless ZONE 7, its officers, agents, servants, and employees from and against any and all claims, loss, damages, and expenses including but not limited to inverse condemnation and negligence, (collectively "Liabilities") by whomever asserted, arising out of or in connection with 1) the use of the Property for floodway/floodplain purposes; 2) CITY breach of this Agreement; or 3) Liabilities arising out of or in connection with the performance of any work and obligations described herein, caused in whole or in part by any act or omission of CITY, its officers, officials, employees, agents and contractors except where caused by the sole negligence, or willful misconduct of Zone 7, or its officers, agents, or employees.

GENERAL PROVISIONS

a. If, during the life of this agreement, it becomes necessary to amend or add to the terms, conditions, or requirements of this agreement, such amendment or addition shall only be made after mutual agreement of Zone 7 and City and the execution of a written modification of this Agreement.

b. No portion of this Agreement shall be assigned by either Party without obtaining the other's prior written consent. The term "assignment" shall include any sale, assignment, or transfer which results in a change of control by the assigning Party.

c. Any demand or notice which either party shall be required or may desire to make upon or give to the other shall be in writing and shall be delivered personally upon the other or be sent by prepaid certified mail to the respective parties as follows:

To Zone 7: ZONE 7 General Manager
Zone 7 Water Agency
100 North Canyons Parkway
Livermore CA 94551

To City: City of Livermore
Attention City Engineer
1052 S Livermore Avenue
Livermore CA 94550

Either party may from time to time designate any other address for this purpose by written notice to the other party given with 10 business day notice.

d. This Agreement constitutes the entire agreement and understanding between the parties and supersedes all offers negotiations and other agreements concerning the subject matter contained herein.

e. If any provision of this Agreement is invalid or unenforceable with respect to any party the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extents permitted by law.

f. This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the dates appearing below their respective authorized signatures.

ALAMEDA COUNTY FLOOD
CONTROL AND WATER
CONSERVATION DISTRICT
"ZONE 7"

Date: ___________________ By:________________________________
G.F. Duerig, General Manager

ATTEST:

Date: _________________

By:______________________
Secretary, Board of Directors

CITY OF LIVERMORE

A Municipal Corporation
"CITY"

DATED: ________________

BY: ______________________________
Mark Roberts, City Manager

ATTEST:

____
CITY CLERK

APPROVED AS TO FORM:

____
SR. ASSISTANT CITY ATTORNEY

Attachments:

Exhibit A
Exhibit B

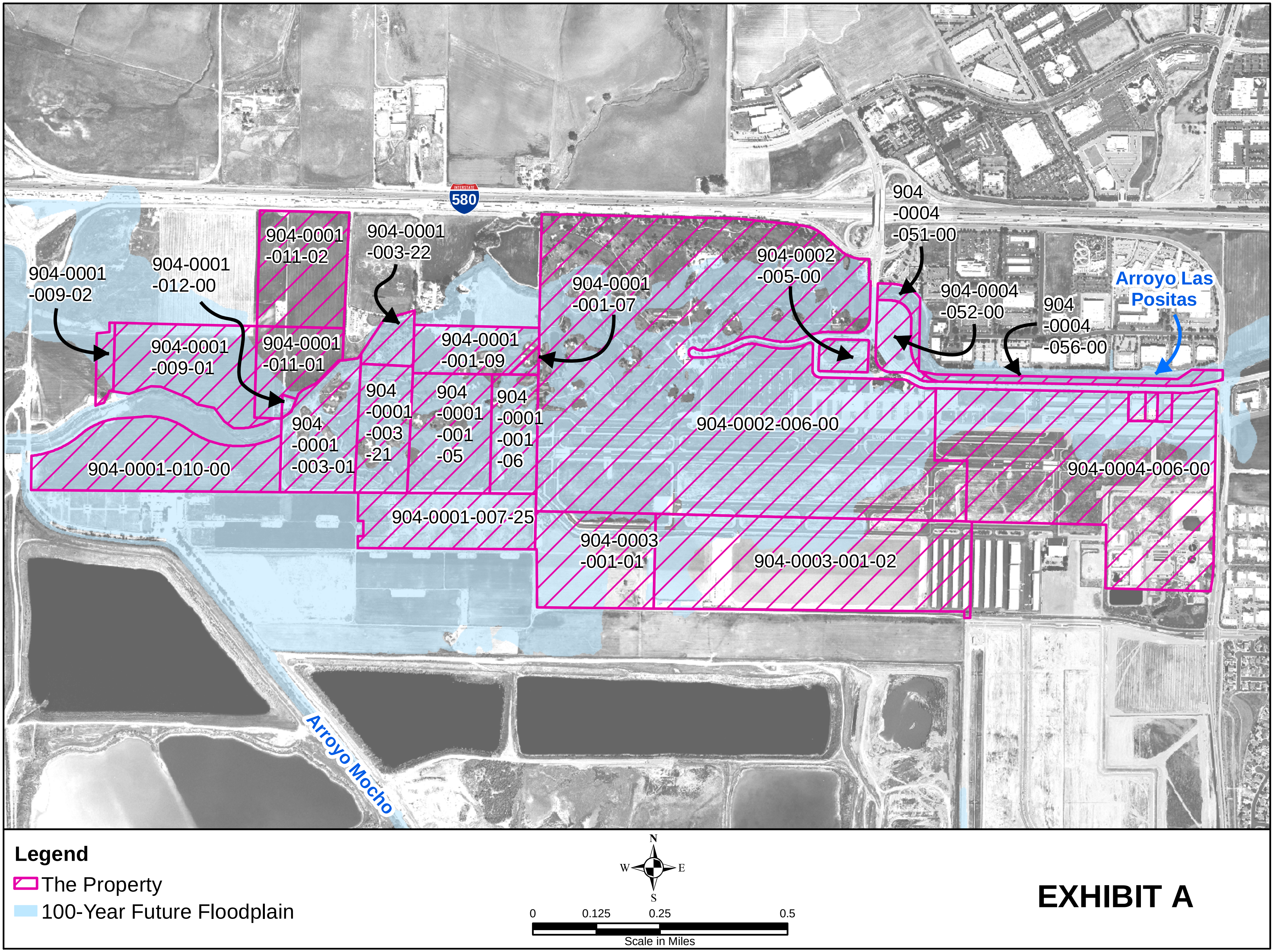

580
904-0001
-009-02
904-0001
-012-00
904-0001
-011-02
904-0001
-003-22
904-0001
-001-07
904-0002
-005-00
904
-0004
-051-00
904-0004
-052-00
904
-0004
-056-00
Arroyo Las
Positas
904-0001
-009-01
904-0001
-011-01
904-0001
-001-09
904
-0001
-003
-21
904
-0001
-001
-05
904
-0001
-001
-06
904
-0001
-003-01
904-0002-006-00
904-0001-010-00
904-0004-006-00
904-0001-007-25
904-0003
-001-01
904-0003-001-02
Arroyo Mocho
Legend
The Property
100-Year Future Floodplain
N
W
E
S
0
0.125
0.25
0.5
Scale in Miles

EXHIBIT A

ASSURANCES
Airport Sponsors

A. **General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.

2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.

3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. **Duration and Applicability.**

1. **Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor**. The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with Federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor**. The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. **Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act - 5 U.S.C. 1501, et seq.[2]
e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
q. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.[1]
r. Power Plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
t. Copeland Anti Kickback Act - 18 U.S.C. 874.1
u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity[1]
Executive Order 11990 - Protection of Wetlands
Executive Order 11988 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
Executive Order 12898 - Environmental Justice

Federal Regulations

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
c. 14 CFR Part 150 - Airport noise compatibility planning.
d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]
h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
i. 49 CFR Part 20 - New restrictions on lobbying.
j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
k. 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.
l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1 2]
m. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]
o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.[1]

Office of Management and Budget (OMB) Circulars

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

[1] These laws do not apply to airport planning sponsors.

[2] These laws do not apply to private sponsors.

[3] 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.

a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability. It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall ensure that such arrangement also requires compliance therewith.

g. It will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which the project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty (60) days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance**. With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for

access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates. It shall include, in all contracts in excess of $2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference. It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications. It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.

17. Construction Inspection and Approval. It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects. In carrying out planning projects:

a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

(1) Operating the airport's aeronautical facilities whenever required;

(2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

(3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. **Economic Nondiscrimination**.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

(1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

(2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights. It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit

report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

   1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

   2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft. It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or

b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.

30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or

benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land.

a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.

33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated **___________** and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses**. The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. Hangar Construction. If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

a. If the airport owner or operator of a medium or large hub airport (as defined in Section 47102 of Title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
   (1) Describes the requests;
   (2) Provides an explanation as to why the requests could not be accommodated; and
   (3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six (6) month period prior to the applicable due date.

AGREEMENT BETWEEN CITY OF LIVERMORE AND ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT FOR MAINTENANCE OF THE MITIGATION AREA

This Agreement is entered into this _____day of ______________ 2014, between Alameda County Flood Control and Water Conservation District, (hereinafter "Zone 7") and the City of Livermore, (hereinafter "City").

RECITALS

A. The City of Livermore applied to the California Regional Water Quality Control Board for the San Francisco Bay Region ("Board") for a water quality certification under Section 401 of the Clean Water Act and coverage under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" to authorize the City of Livermore to place fill in waters of the United States and the State of California in connection with a project to construct storm water management infrastructure, roadways and bridges on the Burdened Property and on surrounding properties. Impacts to waters of the U.S. and waters of the State of California are authorized by the CWA Section 401 Certification and coverage Board under Order No. 2003-0017.

B. The Board's Section 401 certification includes Special Conditions and, City is obligated to meet these conditions. The Board requires that City shall obtain the legal right to perform its obligations as required on and over a portion of real property within Assessor's Parcel Number 904-0001-003-23 owned by Zone 7 ("Protected Area"). City is obligated to restore, monitor and maintain a portion of the property consistent with the Habitat Mitigation, Restoration and Monitoring Plan, El Charro Specific Plan Project (HMRMP) (ICF Jones & Stokes, October 2009).

C. City desires to obtain the necessary legal rights to meet its obligations under the Board's Section 401 certification and Zone 7 agrees to cooperate with City's request.

NOW, THEREFORE, be it mutually agreed as follows:

AGREEMENT

1. ZONE 7 owns certain real property situated in the City of Livermore, County of Alameda, State of California, more particularly described as APN 904-0001-003-23 ("Property").

2. ZONE 7 agrees to allow the CITY, its officers, officials, employees, and agents at all times the legal right to enter and access on to, over, and upon the Property as delineated on the map attached hereto and made a part hereof (Exhibit A), and to restore, monitor, and maintain the Protected Area consistent with the *Habitat Mitigation, Restoration and Monitoring Plan, El Charro Specific Plan Project* (HMRMP) (ICF Jones & Stokes, October 2009).

3. It is understood and agreed that permission to do the work and perform the acts stated herein and referenced in the HMRMP shall remain in force and effect until the success criteria in the HMRMP, Table 2 Performance Standards and Success Criteria for Wetland Mitigation and Table 3 Performance Standards and Success Criteria for Riparian Zone Plantings, are achieved and for an additional 5 year period thereafter. This provision shall be non-modifiable and irrevocable for this period of time.

4. Upon completion of the 5 year period, Zone 7 will resume maintenance responsibilities for the Protected Area and City will compensate Zone 7 for such maintenance pursuant to the Agreement Between City and Zone 7 for the El Charro Specific Plan Area Flood Protection Improvements dated April 1, 2011.

5. The City shall indemnify, defend, protect and save Zone 7 from and against all claims, damages, losses, and expenses, including attorney fees, arising out of the performance of the work described herein, except where caused by the active negligence, sole negligence, or willful misconduct of the Zone 7.

6. Any demand or notice which either party shall be required, or may desire to make upon or give to the other shall be in writing and shall be delivered personally upon the other or be sent by prepaid certified mail to the respective parties as follows:

   ZONE 7: General Manager
   Zone 7, Alameda County Flood Control
   and Water Conservation District
   100 North Canyons Parkway
   Livermore, CA 94551

   CITY: City of Livermore
   Attention: City Engineer
   1052 S. Livermore Avenue
   Livermore, CA 94550
   925-960-4500

7. City may be self-insured or shall procure and maintain, at City's sole expense, for the duration of this Agreement, and shall ensure that its agents, consultants, and contractors procure and maintain insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the construction, use, restoration, monitoring, maintenance, or repair of the Protected Area or Zone 7's Property by City, or its agents, representatives, employees, contractors, subcontractors, and invitees. City is a member of and, shall maintain limits consistent with California Joint Powers Risk Management Authority (CJPARMA).

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the dates appearing below their respective authorized signatures.

ZONE 7:

By:______________________________________
G.F. Duerig, General Manager

CITY OF LIVERMORE:

By:______________________________________
Marc Roberts, City Manager

Approved as to Form:

____
Senior Assistant City Attorney

PLEASE PLACE RECORDER LABEL BELOW THIS LINE

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Alameda County Flood Control and
Water Conservation District, Zone 7
100 N. Canyon Parkway
Livermore, CA 94551

This Space for Recorder's Use Only

No Fee for recording pursuant to Government Code Section 27383

APN 904-0001-003-23 (Portion)

COVENANT AND DEED RESTRICTION

A. This Covenant and Deed Restriction is made and executed on this_____day of ________ 2014, by the Alameda County Water Conservation and Flood Control District, Zone 7 ("Zone 7"), which is the Owner of fee title of certain real property located south of the Arroyo Las Positas east of El Charro Road, City of Livermore, County of Alameda, State of California, Assessor's Parcel Number 904-0001-003-23 (hereafter, the "Burdened Property"). The City of Livermore applied to the California Region.al Water Quality Control Board for the San Francisco Bay Region ("Board") for a water quality certification under Section 401 of the Clean Water Act and coverage under State Water Resources Control Board Order No. 2003 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" to authorize the City of Livermore to place fill in waters of the United States and the State of California in connection with a project to construct storm water management infrastructure, roadways and bridges on Zone 7's Burdened Property and on surrounding properties. Impacts to waters of the U.S. and waters of the State of California are authorized by the CWA Section 401 Certification and coverage under Board Order No. 20030017.

B. On August 31, 2010 the Board's Executive Officer Issued a water quality certification for the City of Livermore's proposed discharges to waters of the United States and the State. The Certification is attached hereto as Exhibit A. Special Conditions 1 through 49 (hereafter the "Special Conditions") in the Certification set forth conditions of approval concerning the proposed fill.

C. The Board's Executive Officer found that, but for the Special Conditions, the proposed discharge into waters of the United States and State of California could not be found consistent with applicable law and that a water quality certification could therefore not be issued.

D. The Special Conditions among other things, require that the City of Livermore shall submit to the Executive Officer a deed restriction executed and recorded by Zone 7 prior to the time that the City of Livermore discharges any part of its planned discharge to waters of the United States. That deed restriction shall require that a portion of the Burdened Property (the "Protected Area") (which is more particularly described on Exhibit B} be restored and maintained in perpetuity consistent with the Final Habitat Mitigation, Restoration and Monitoring Plan, El Charro Specific Plan Project (HMRMP) (ICF Jones & Stokes, October 2009) and that use of the Protected Area be limited as set forth in the Special Conditions.

E. Zone 7 has elected to execute and record the deed restriction required in the Special Conditions, so as to enable the City of Livermore to undertake the actions authorized by the water quality certification issued by the Board.

NOW, THEREFORE, in consideration of the water quality certification issued by the Executive Officer, the undersigned Zone 7, for itself and for its heirs, assigns, and successors-in-interest, hereby irrevocably covenants with the Board that the protective provisions, covenants and restrictions ("Restrictions") set forth in this Deed Restriction shall at all times on and after the date on which this Deed Restriction is recorded constitute for all purposes, covenants, conditions and restrictions on the use and enjoyment of the Protected Area of the Burdened Property that are hereby attached to the deed to the Burdened Property as fully effective components thereof.

ARTICLE I
DEFINITIONS

1.1 <u>Board.</u> "Board" shall mean the California Regional Water Quality Control Board for the San Francisco Bay Region and shall include its successor agencies, if any.

1.2 <u>Occupants.</u> "Occupants" shall mean Zone 7 and those persons entitled by ownership, leasehold, or other legal relationship to the right to use and/or occupy all or any portion of the Protected Area of the Burdened Property.

1.3 <u>Owner or Owners.</u> "Owner" or "Owners" shall mean Zone 7 and/or its successors in interest, who hold title to all or any portion of the Protected Area of the Burdened Property.

ARTICLE II
GENERAL PROVISIONS

2.1 <u>Provisions to Run with the Land</u>. This Covenant and Deed Restriction set forth Restrictions upon and subject to which every portion of the Protected Area of the Burdened Property shall be improved, held, used, occupied , leased, sold, hypothecated , encumbered and/or conveyed. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Protected Area of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the Board and all other Owners and Occupants. Each and all of the Restrictions are enforceable by the Board.

2.2 <u>Concurrence of Owners and Lessees Presumed</u>. All purchasers, lessees, or possessors of any portion of the Protected Area of the Burdened Property shall be presumed by their purchase, leasing, or possession of such Protected Area of the Burdened Property to be In accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the Board and the Owners and Occupants of the Protected Area of the Burdened Property and that the interest of the Owners and Occupants of the Protected Area of the Burdened Property shall be subject to the Restrictions contained herein.

2.3 Incorporation into Deeds and Leases. Zone 7 desires and covenants that the Restrictions and Conditions shall be incorporated in and attached to each and all deeds and leases of any portion of the Protected Area of the Burdened Property Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

2.4 Zone 7 has granted to City of Livermore sufficient legal rights so City of Livermore can fully comply with the Special Conditions despite any transfer, sale, lease or other conveyance of Zone 7's legal interest in the Protected Area of the Burdened Property or any portion thereof, in accordance with the Agreement between City of Livermore and Alameda County Flood Control and Water Conservation District Regarding Parcel No.904-0001-003-23.

2.5 Zone 7 agrees that the Board, and/or any persons acting pursuant to Board orders, shall upon providing reasonable notice to Zone 7 and City, have reasonable access to the Protected Area of the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.

2.6 No Owner or Occupant of the Protected Area of the Burdened Property shall act in any manner that would be inconsistent with the Restrictions.

2.7 Enforcement. The San Francisco Regional Water Quality Control Board shall have the right, to enforce each and every provision herein. The covenant shall be enforceable by remedy of injunctive relief in addition to any other remedy in law or equity. Failure of an Owner or Occupant to comply with any provision of this Covenant shall be grounds for the Board, by reason of this Covenant, to have the authority to require that the Owner modify or remove any improvements constructed in violation of this Covenant and restore the Protected Area of the Burdened Property as described in the HMRMP and the Special Conditions. In the event that Zone 7, its heirs, assigns or successors in interest shall fail to abide by any of the covenants hereunder, they hereby agree to pay all reasonable costs and expenses incurred by the San Francisco Regional Water Quality Control Board in securing performance of such obligation, including reasonable attorney's fees and costs. In the event of a breach, any forbearance on the part of any party to this covenant to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

2.8 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property. Any such instrument shall contain the following statement:

> The land described herein is subject to a deed restriction dated as of ________________, 2014, and recorded on, __________ 2014, in the Official Records of Alameda County, California, as Document No.__________, which

Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of a portion of the property described herein.

ARTICLE III
RESTRICTIONS

3.1 All mandatory mitigation measures presented in the Final Habitat Mitigation, Restoration and Monitoring Plan, El Charro Specific Plan Project (HMRMP) (ICF Jones & Stokes, October 2009) applicable to the Protected Area of the Burdened Property shall be implemented.

3.2 Unless allowed pursuant to Sections 3.3 or 4.2 below or unless allowed in the HMRMP or future revisions thereof that have been approved in advance in writing by the Board or its Executive Officer, the following activities are prohibited within the Protected Areas:

a) Unseasonal watering, use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals, that may adversely affect the purpose of this Deed Restriction;
b) Depositing or allowing the uncontained accumulation of trash, ashes, garbage, waste, or any similar other material;
c) Removing, destroying, or cutting of native trees, native shrubs, or other native vegetation, except as required for the prevention or treatment of disease, abatement of weeds or invasive plants, and implementation of the HMRMP.
d) Introduction of non-native, exotic, or invasive species;
e) Use of vehicles off designated roadways unless necessary to implement the HMRMP or for emergency fire management or personal safety;
f) Paving or otherwise covering of Conservation Area 1 with concrete, asphalt, or any other impervious paving material;
g) Filling, dumping, excavating, draining, dredging, mining, drilling;
h) Removing or exploring for or extraction of minerals, loam, sands, gravel or other material on or below the surface;
i) Altering the surface or general topography, including building of roads, or construction of temporary or permanent structures, except as necessary for maintenance or restoration of the improvements authorized by the certification described above in Paragraph B and included as Exhibit B;
j) Removal, destruction, cutting of native trees, or other native vegetation for fire prevention purposes, without written approval by the Executive Officer of the Board, except for removal of dry or dead debris and mowing of dry grasses.

3.3 Notwithstanding the foregoing restrictions, the following activities may occur in the Protected Areas:

a) Maintenance and repair of the banks of Arroyo Las Positas for flood control purposes, provided that the Owner or City of Livermore shall receive written permission from the Executive Officer of the Regional Board regarding the time, location, and manner of such activities and shall obtain from the Board any necessary permits, or approvals in accordance with a multi-year maintenance permit.

b) Engaging in uses and activities necessary or appropriate to implement the HMRMP

c) Control of entry upon the Protected Property, including, without limitation, the installation and maintenance of signs or fences that do not impede the movement of wildlife.

ARTICLE IV
VARIANCE AND TERMINATION

4.1 This covenant and the provisions thereof are irrevocable and non-modifiable and shall continue in effect in perpetuity unless modified or terminated as provided herein.

4.2 Any Owner or City of Livermore, or with the Owner's consent, any Occupant of the Protected Area of the Burdened property or a portion thereof may apply to the Board for a written variance from the provisions of this Covenant.

4.3 Any Owner or with the Owner's consent, any Occupant of the Protected Area of the Burdened property or a portion thereof may apply to the Board for a termination of the provisions of this Covenant as they apply to all or any portion of the Protected Area of the Burdened Property.

ARTICLE V
MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Protected Area of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

If To: "Zone 7"
Alameda County Flood Control and Water Conservation District Zone 7
Attn: General Manager
100 N. Canyons Pkwy
Livermore, CA 94551

With a copy to: City of Livermore
Attn: City Engineer
1052 S. Livermore Avenue
Livermore, CA 94550

If To: "Board"
Bruce H. Wolfe, Executive Officer
Attn: Brian Wines, & Site No. 02-01-C0945 Regional Water Quality Control Board
San Francisco Bay Region 1515 Clay Street, Suite 1400
Oakland, California 94612

5.3 Partial Invalidity. If any portion of this Covenant is determined to be invalid for any reason, the remaining portion shall remain in full force and effect.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by Zone 7 and by the Executive Officer of the Board. This Instrument shall be recorded by Zone 7 in the County of Alameda within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this Instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

COVENANTER: Alameda County Flood Control and Water Conservation District Zone 7

By: ____________________________

Keith Carson, President
The Board of Supervisors
Alameda County Flood Control and
Water Conservation District

Date: ______________________________

AGENCY: State of California Regional Water Quality Control Board San Francisco Bay Region

By: ______________________________ Date: ____________________________
Title: Executive Officer

California Regional Water Quality Control Board
San Francisco Bay Region

Linda S. Adams
Secretary for
Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
http://www.waterboards.ca.gov/sanfranciscobay

Arnold Schwarzenegger
Governor

Exhibit A

August 31, 2010
Site No. 02-01-C0945 (bkw)
CIWQS Place No. 731441
ACOE File No. 400239

Sent via electronic mail: No hardcopy to follow

City of Livermore
Planning Division, Community Development Department
1052 South Livermore Avenue
Livermore, CA 94550

Attn: Eric Brown, Special Projects Coordinator (ebrown@ci.livermore.ca.us)

Subject: Water Quality Certification for the El Charro Specific Plan Project, in the City of Livermore, Alameda County

Dear Mr. Brown:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff have reviewed the application materials submitted by ICF Jones & Stokes on behalf of the City of Livermore (the Applicant) for the project to construct stormwater management infrastructure, roadways, and bridges that are needed to support the implementation of the City of Livermore's El Charro Specific Plan in the City of Livermore, in Alameda County (Project). You have applied to the U.S. Army Corps of Engineers (ACOE) for authorization of this Project under a Clean Water Act (CWA) Section 404 Individual Permit (ACOE File No. 400239). You have applied to the Water Board for Clean Water Act Section 401 water quality certification (certification) that the Project will not violate State water quality standards.

Project Description: The following description is summarized from application materials received between May 2007 and January 2010. The purpose of the Project is to construct infrastructure needed to support the implementation of the City of Livermore's El Charro Specific Plan, in an undeveloped area on the west side of the City of Livermore (see Figures 1-1 and 1-2 in Attachment A to this certification). The El Charro Specific Plan will facilitate commercial development and other uses in the 250-acre Specific Plan area. The Project includes several elements:

- Commercial development and open space land uses;
- Circulation improvements, including the extension of Jack London Boulevard, the widening of El Charro Road, construction of interchange improvements at Interstate 580 (I-580), construction of internal circulation roads and bridges, and the construction of a regional trail extension;

- Construction of flood management improvements, including a flood diversion and storage area, mass fill, levees/berms, hydromodification basins, drainage swales, and storm drain lines and outfalls;
- Construction of other infrastructure improvements, including the extension of sewer, power, gas and water lines; and
- Redesign of the Las Positas Golf Course.

Project activities that will occur within waters of the State include:

- The construction of six new bridges;
- The removal of two existing bridges and a culverted crossing;
- The construction of five new outfalls;
- The reconditioning of one outfall;
- The construction of the South Storage Diversion Area (a flood diversion and storage area); and
- The construction of the Jack London Boulevard Extension and the widening of El Charro Road.

Stormwater Management Facilities: Flooding currently affects 51 acres of the El Charro Specific Plan area, portions of the Livermore Municipal Airport, portions of the Las Positas Golf Course, and City of Livermore infrastructure between Isabel Avenue and El Charro Road. The Project will remove the developable property from the floodplain in the Specific Plan Area by constructing the north bank mass fill area and excavating the South Storage Diversion Area (see Figures 1-3a and 1-3b in Attachment A to this certification). Flood waters that have historically flooded the Specific Plan area and Airport will be deflected by a set-back berm along the northern edge of the Airport, over a drop structure, through 10 new box culverts under the Jack London Boulevard (JLB) Extension, and into the South Storage Diversion Area. These waters will ultimately be discharged back into Arroyo Las Positas through new outfalls. Additional flood control measures include placing mass fill at the Children's Hospital parcel, located at the confluence of Cottonwood Creek and Arroyo Las Positas. Mass fill will be placed outside of a 100-foot setback along Arroyo Las Positas.

HMP Basins: For stormwater management, the Specific Plan area is divided into three Specific Plan Hydromodification Management Plan (HMP) Areas, and stormwater runoff within each HMP area will drain into an HMP basin that has been designed to meet the water quality treatment requirements and HMP requirements in Provision C.3 of the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Order No. R2-2009-0074; NPDES Permit No. CAS612008). Runoff from the 85th percentile storm event will be discharged from the HMP basins over a period of 48 hours, and water retained in the HMP Basins from a 100-year storm event will be completely drained within 5 days, in order to support vector control. The City-operated HMP Basins have been designed to provide 50 percent of the C.3.g. HMP and 50 percent of the C.3.d. water quality treatment requirements for the Specific

Plan area. The City will require each property owner within the Specific Plan area to provide the remaining 50 percent of required treatment within their individual development projects.

Impacts: The Project will impact 2.41 acres of waters of the State, illustrated in Figures 1-3a and 1-3b in Attachment A to this certification, and summarized in Tables 1-1, 1-2, and 1-3, in Attachment B.

The discharge of permanent fill material to waters of the State will consist of:

- About 64 cubic yards of riprap and 4 cubic yards of concrete will be discharged into Arroyo Las Positas for the construction of four new 24-inch diameter storm drain outfalls.
- About 40 cubic yards of riprap and 18 cubic yards of concrete will be placed in Arroyo Las Positas to construct the combined 36-inch diameter/48-inch diameter outfall.
- About 3,600 cubic yards of earthen fill will be discharged to drainage ditch DD-1 to construct the JLB Extension and the South Storage Diversion Area.
- The seasonal wetlands near I-580 will be filled with about 2,530 cubic yards of earthen fill, to support modifications to El Charro Road and the I-580 interchange.
- The seasonal wetlands associated with one of the golf course ponds will be filled with about 500 cubic yards of earthen fill, to support the JLB Extension. The golf course ponds lack natural hydrology and are not regulated as waters of the State.

Temporary impacts associated with channel dewatering and falsework needed for the construction of the new bridges will impact about 664 linear feet of Arroyo Las Positas and Cottonwood Creek. Temporary work areas for the creation of Conservation Area 1, Conservation Area 2, and the bridge removal areas will occur along 2,393 linear feet of Arroyo Las Positas and Cottonwood Creek, but these activities will not require significant riparian vegetation removal. Table 1-3 in Attachment B to this certification summarizes the Project's temporary impacts and associated mitigation.

New Storm Drain Outfalls and Reconditioning of Outfall: Four new 24-inch diameter corrugated metal pipe (CMP) storm drain outfalls will be constructed in Arroyo Las Positas (see Figure 1-3a in Attachment A), and the invert elevation of an existing 48-inch outfall, located downstream from the fish ladder on the south (left) bank of the Arroyo Las Positas, will be lowered. Each of these outfalls will include the placement of grouted riprap into the toe of the creek bank.

The area impacted by excavation and rock placement at each new outfall structure will be about 15 feet wide by 15 feet tall, and three feet thick. The four new 24-inch diameter outfalls will fill a total of about 0.04 acres of waters of the State. Lowering of the existing outfall will not result in net new fill to Arroyo Las Positas, since the location is already armored.

Dual-Pipe Outfall: A replacement outfall, consisting of a 36-inch diameter concrete pipe and a 48-inch diameter concrete pipe with a cemented rock spillway, will be constructed on the north (right) bank of Arroyo Las Positas, about 120 feet downstream from the fish ladder. The dual-pipe outfall will be connected to the storm drain line that drains Hydrograph Modification Plan (HMP) Basins #1 and #2, and #3. About 0.02 acres of waters of the State will be impacted.

West Jack London Boulevard Bridge: A new 100-foot long by 45-feet wide, clear span bridge will be constructed over Arroyo Las Positas to accommodate the JLB Extension to El Charro Road (see Sheets S-1B and C4.7 in Attachment D to this certification). The new bridge will not require permanent fill in waters of the State.

Temporary impacts lasting about two months will be associated with the placement of cofferdams and a diversion pipe to dewater about 150 linear feet of the creek. Additional temporary impacts will result from excavation and backfilling on the channel banks in order to install two-foot-thick, buried rock curtains around the bridge abutments. The rock curtains will extend from the face of the abutments to a depth of four feet below the Arroyo Las Positas thalweg, at a 1.5:1 slope. About 120 linear feet of each creek bank below the bridge will be excavated 22 feet to allow the placement of the rock curtain. The rock will then be covered with a 20-foot thick layer of the original bank material, and the bank will be returned to preconstruction contours.

During construction, a temporary, freespan rail car bridge will be placed over the Arroyo, about 130 feet downstream of the new JLB bridge, for construction access. This temporary bridge will not have impacts below the top-of-bank. Upon bridge completion, temporary fills will be removed from the channel and disturbed areas will be restored to preconstruction contours and revegetated with native seed mixtures and/or transplants.

Multi-use Trail Bridge: A pedestrain bridge will be constructed over Arroyo Las Positas in the southwest portion of the project area, immediately upstream of the fish ladder, for a multi-use trail. The bridge will be about 80-feet long by 16-feet wide (see Sheets S-1 and 5.1 in Attachment D to this certification). No permanent fill material will be placed in the creek channel. Temporary impacts lasting approximately 60 days will be associated with the use of cofferdams and a diversion pipe during construction. The creek banks at this location are lined with rock riprap. As described above for the other bridges over Arroyo Las Positas, a 2-foot thick curtain of rock will be buried at the base of each bridge abutment.

Crosswinds Bridges: Four new bridges will be constructed near the confluence of Arroyo Las Positas and Cottonwood Creek, in a portion of the Specific Plan area referred to as the Crosswinds property (see Sheets CROSSWINDS CHURCH BRIDGE 1 S-1, CROSSWINDS CHURCH BRIDGE 2 S-1, CROSSWINDS CHURCH BRIDGE 3 S-1, and CROSSWINDS CHURCH BRIDGE 4 in Attachment D to this certification). This property, located on the northeast side of the El Charro Specific Plan, along I-580 and immediately west and north of the Las Positas Golf Course, is referred to as the Crosswinds property, because Crosswinds Church is purchasing the property to build a new church on the location. However, the property is currently owned by the Cottonwood Creek Partners. The site has also been previously referred to as the Children's Hospital property. Crosswinds Church also owns property in the El Charro Specific Plan west of the driving range along I-580, but all reference in this certification to the "Crosswinds property" or the "Crosswinds bridges" are referring to activity on the property owned by the Cottonwood Creek Partners.

New bridges will be between 30 and 32 feet wide and between 70 and 85 feet long. Three of these bridges (Crosswinds Bridges #2, #3, and #4) will be constructed over Arroyo Las Positas and the other bridge (Crosswinds Bridge #1) will be constructed over Cottonwood Creek (see Figure 3.2 in Attachment A). The new free-span bridges will place no new fill in the creek channels. Temporary impacts will be associated with cofferdams and diversion pipes that will be used to dewater the construction zones.

For Crosswinds Bridges # 2, #3, and #4, additional temporary bank impacts will result from excavation and backfilling to install two-foot-thick, buried rock curtains around the bridge abutments, as was described above for the JLB Extension Bridge. About 60 linear feet of each creek bank below each bridge will be excavated to make a trench 9.5 to 11 feet deep and 2 feet wide to allow placement of the rock scour protection. Upon completion of construction, temporary fill in Arroyo Las Positas, consisting of cofferdams and falsework, will be removed and disturbed areas will be returned to preconstruction contours and elevations, and revegetated with native seed mixtures and/or transplants.

Cottonwood Creek will be impacted by the construction of Crosswinds Church Bridge #1 and the removal of one abandoned bridge and a twin culvert (see Figure 3-2 in Appendix A to this certification). The new bridge will be a free span bridge, and a rock curtain is not being constructed below the abutments of this bridge. Therefore, impacts to Cottonwood Creek are limited to temporary construction dewatering. Areas disturbed during removal of the abandoned bridge and the twin culverts will be re-vegetated as part of the habitat restoration component of Conservation Area 2.

South Storage Diversion Are /Jack London Extension: Construction of the South Storage Diversion Area and the JLB Extension (see Figures 1-3a and 1-3b in Attachment A) will require the fill of about 1,350 linear feet of drainage ditch DD-1, with an impacted surface area of 1.34 acres, of which 0.425 acres consist of seasonal wetlands in the channel bottom.

El Charro Road Widening/Commercial Development: To accommodate the widening of El Charro Road, connections to the eastbound I-580 on-ramp, and commercial development, three seasonal wetlands with a combined surface area of 0.90 acres, located near El Charro Road and I-580, will be filled (see Figure 1-3a in Attachment A to this certification).

Jack London Boulevard Extension: The construction of the JLB Extension will result in the fill of 0.11 acres of seasonal wetland adjacent to one of the golf course ponds, as well as the fill of 3.16 acres of two golf course ponds. The golf course ponds are not regulated as waters of the State.

Mitigation: Mitigation site designs and monitoring and maintenance procedures are presented in the *Habitat Mitigation, Restoration and Monitoring Plan, El Charro Specific Plan Project* (HMRMP) (ICF Jones & Stokes, November 2009). Mitigation and restoration will occur at four locations within the project area (see Figure 1-3a in Attachment A to this certification).

Conservation Area 1 (7.25 acres): Conservation Area 1 will be located on Arroyo Las Positas and will include the construction and planting of floodplain benches, a riparian planting zone, and buffer planting zones (Figure 3-1 in Attachment A and Sheets A-1, G-1, G-2, G-3, G-4, and G-5 in Attachment E).

Mitigation Ditch (3.06 acres): A mitigation ditch, with a surface area of 3.06 acres and a length of 1,713 feet, will be excavated on the south side of Arroyo Las Positas, to compensate for impacts to ditch DD-1 and to seasonal wetlands (Figure 3-1 in Attachment A). Water will flow into the ditch from a low point on the golf course, via a 24-inch pipe under Jack London Boulevard. A 24-inch storm drain will serve as an outlet into Arroyo Las Positas at the west end of the ditch (Figure 3-1 in Attachment A). The ditch will be planted and seeded with native herbaceous seasonal wetland vegetation.

Conservation Area 2 (1.53 acres): Conservation Area 2 will be located on Cottonwood Creek and will include the construction and planting of floodplain benches, a riparian planting zone, and buffer planting zones, as well as the removal of a twin culvert (Figure 3-2 in Attachment A and Sheets A-1 and G-6 in Attachment E).

Bridge Removal Areas (0.11 acres): One bridge will be removed along Cottonwood Creek and one bridge will be removed along Arroyo Las Positas. Streambanks at the bridge removal sites will be graded and the disturbed areas planted with native riparian overstory and understory plant species (Figure 3-2 in Attachment A).

Estimated mitigation and restoration areas for each Project component are provided in Table 1, below:

Table 1. Estimated Mitigation and Restoration Areas

Location	Program Component	Estimated Area (acres)	Estimated Length (feet)
Conservation Area 1 (Arroyo Las Positas)	Floodplain Bench Planting Zone	0.34 (1)	1,875 (1)
	Riparian Planting Zones	1.77 (1)	1,875 (1)
	Buffer Planting Zone	5.14 (2)	1,875 (2)
Conservation Area 2 (Cottonwood Creek)	Floodplain Bench Planting Zone	0.15	388
	Riparian Planting Zone	0.28	388
	Buffer Planting Zone	1.10 (2)	388 (2)
Bridge Removal Areas	Riparian Planting	0.11	65
Mitigation Ditch	Ditch/wetland creation	3.06	1,713

(1) 0.082 acres of floodplain bench and 0.219 acres of riparian plantings in Conservation Area 1 are required for mitigation of Project impacts. The remainder of the constructed mitigation in Conservation Area 1 will be used by Zone 7 as mitigation for impacts associated with future Zone 7 projects.

(2) Area is not proposed as mitigation.

The creek restoration areas consist of three different planting zones.

- Floodplain Bench Planting Zone – This area below the top of bank of Arroyo Las Positas and Cottonwood Creek will include excavation of a planting bench and the planting of riparian species.
- Riparian Planting Zone – This area, located above the floodplain bench planting zone, will be planted with riparian species. On Cottonwood Creek, this zone will only be located below the top of the future creek bank. On Arroyo Las Positas, this zone will include areas that will be both below and above the top of the future creek bank.
- Buffer Planting Zone – This area is an upland area, adjacent to the riparian planting zone along portions of Arroyo Las Positas and Cottonwood Creek, which will act as a buffer/setback area between development and the creeks. The buffer will be planted with native grasses and shrubs.

Floodplain Benches and Riparian Planting Zones: Because of past channel incision, most riparian vegetation along Arroyo Las Positas and Cottonwood Creeks occurs at mid-bank or along the top of the streambank, where inundation is infrequent. The over-steepened banks and lack of floodplain benches also limits the deposition of native seed material, natural recruitment of plants, or the replacement of senescent riparian vegetation. Sections of floodplain benches will be excavated in designated areas along both Arroyo Las Positas and Cottonwood Creeks (Figures 3-1 and 3-2 in Attachment A to this certification). The floodplain bench design is shown in Sheet XS-1 in Attachment E to this certification.

Floodplain benches will be located on the inside bank of existing channel bends to reduce high-flow velocities and associated bank erosion, improve geomorphic functions and processes, and provide opportunities for planting sustainable stands of native riparian trees and shrubs. The benches will be set at elevations consistent with the bankfull discharge (1- to 2-year flood recurrence interval), based on hydraulic modeling. To further stabilize the streambanks and provide additional planting opportunities, the bank above the floodplain bench will be graded to create a stable bank, with a maximum slope of 3:1, except for areas where the graded banks transition back to existing, steeper banks.

About 2.53 acres of floodplain benches and slopes will be created along Arroyo Las Positas (2.11 acres) and Cottonwood Creek (0.43 acre). Floodplain benches will be narrow, relatively flat surfaces located adjacent to the low-flow channel. Riparian planting zones consist of the graded channel bank located between the floodplain benches and the field grade at the top of bank. The benches will be subject to periodic inundation during high-flow events and will be in close proximity to seasonal water in the stream channel. Portions of the riparian planting zones will be subject to periodic inundation during high-flow events, but most of the planting zone will not be inundated and will be upslope of seasonal water in the stream channel.

Floodplain benches will be planted with a mixture of native overstory and understory riparian species and seeded with a native seed mix. The species composition and plant quantities are listed in the tables in Attachment C to this certification. Riparian species include red willow, arroyo willow, valley oak, California rose (Rosa californica), creeping wildrye (Leymus triticoides), and Santa Barbara sedge (Carex barbarae).

Riparian planting zones will be planted with a mixture of native overstory and understory riparian species and seeded with a native seed mix. The species composition and plant quantities are listed in the tables in Attachment C to this certification. Riparian species include valley oak, interior live oak (Quercus wislizenii), buckeye (Aesculus californica), Mexican elderberry, California rose, creeping wildrye, and Santa Barbara sedge.

Plant spacing will be 15 feet on-center for trees and shrubs. Creeping wildrye and Santa Barbara sedge will be planted in clusters. Watering basins will be constructed around each plant and plant protection cages will be installed around those species (e.g., oaks, willows) that may be susceptible to herbivores.

Buffer Planting Zones: The Applicant may establish buffer planting zones in the upland terraces adjacent to Arroyo Las Positas and Cottonwood Creek, to protect the restored riparian corridor and to provide a vegetated transitional zone between developed areas and the creeks[1]. Buffer planting zone widths will range from 50- to 100-feet. About 6.24 acres of buffer planting zones are proposed along Arroyo Las Positas (5.14 acres) and Cottonwood Creek (1.10 acres). These buffer zones are not required as a condition of the present certification.

Within the buffer area, non-native invasive herbaceous vegetation will be removed and replaced with native grasses and forbs such as purple needlegrass (Nassella pulchra), creeping wildrye, and Santa Barbara sedge, as well as native shrubs such as coyote brush (Baccharis pilularis). Native grasses and forbs will be applied as a native seed mix. The species composition, plant quantities, and the seed mix are listed in the tables in Attachment C to this certification.

Bridge and Culvert Removal Areas: One bridge and one culverted crossing over Cottonwood Creek, located on the Crosswinds property, and one bridge over Arroyo Las Positas will be removed (see Figure 3-2 in Attachment A). The bridges will be removed by the developer of the Crosswinds property per the schedule described below. The Applicant shall be responsible for ensuring that the developer of the property removes the bridges and implements and maintains the associated mitigation/restoration planting zones, prior to permanently impacting waters of the State at the Crosswinds poperty.

About 0.11 acres of channel will be affected by bridge removal. Following removal, the streambanks will be graded and the disturbed areas planted with native riparian understory and overstory plant species. Disturbed surfaces will also be seeded with a native seed mix. Plant installation methods will be the same as the other riparian planting zones.

The culverted crossing on Cottonwood Creek will be removed as part of Conservation Area 2. The dual culverts and the earthen fill which surrounds them will be removed and the channel banks will be graded to lay back the banks in coordination with the creation of floodplain benches. Three in-channel grade control structures will be installed in the vicinity of the culvert removal area to stabilize the channel bed. The locations of the grade control structures and construction details are shown in Sheet G-6 in Attachment E to this certification.

Mitigation Ditch: The mitigation ditch (see Figure 3-1 in Attachment A and Sheet A-1 in Attachment E) will be created in upland habitat that is currently in agricultural production. A 24-inch diameter line will be constructed under Jack London Boulevard to convey water from a low point on the golf course to the mitigation ditch. The ditch will be relatively linear in design and will range in width from approximately 42 to 85 feet wide, and between six and seven feet deep. Ditch banks will be graded to provide 2:1 to 3:1 side slopes that will support wetland vegetation. A 24-inch storm drain will serve as an outlet at the west end of the ditch, routing excess water into Arroyo Las Positas (Figure 3-1 in Attachment A). Ditch surfaces will be seeded and plug planted with native grasses and seasonal wetland herbaceous species, including

[1] In accordance with the City-adopted El Charro Specific Plan, a buffer zone has been established along Arroyo Las Positas and Cottonwood Creek to protect the creek and establish a transition zone between development and the creek. This buffer zone is usually 100 feet from the top of bank within the Specific Plan Area, except on a portion of Arroyo Las Positas on the Crosswinds property between the confluence of Arroyo Las Positas and Cottonwood Creek and the western boundary of the Crosswind property. In this area, the buffer zone is 50 feet on the north side of the creek and 150 feet on the south side of the creek.

creeping wildrye and Santa Barbara sedge. The species composition and plant quantities are listed in the tables in Attachment C.

Zone 7 Mitigation Area Replacement Plants: HMP Basins #1 and #2 will discharge through a new outfall on the north bank of Arroyo Las Positas, upstream of El Charro Road. Outfall construction will occur within the Alameda County Flood Control and Water Conservation District, Zone 7 Water's (Zone 7's) riparian mitigation area that was implemented to mitigate for impacts authorized by Water Board Order No. 95-179, and will result in the removal of three riparian mitigation plantings. Following outfall construction, the Applicant shall replace the affected plantings at a 2:1 ratio, by planting two valley oaks and four California wild roses.

Implementation Schedule: Project activities within waters of the State will occur in two phases:

Phase 1 (2010/2011): Restoration of Conservation Area 1, west of the new JLB Extension Bridge will commence in 2010 and be completed in 2011, and the two existing bridges on the Crosswinds property will also be removed and the creek banks restored in 2010. Creation of the Mitigation Ditch will also be completed in 2010 and 2011. These mitigation/restoration activities will occur within the same construction period as the construction of the multi-use pedestrian bridge, the JLB Extension Bridge, installation of the 36-inch/48-inch outfall and lowering of the 48-inch outfall west of the fish ladder, fill of Ditch DD-1, fill of the seasonal wetland on the golf course, fill of the seasonal wetlands near I-580, and construction of Crosswinds Bridge No. 3.

Golf course pond creation will occur in 2010/2011, in parallel with construction of the JLB Extension, which requires fill of the two existing golf course ponds. These ponds, which were created in uplands and are filled using a pump, are not jurisdictional waters of the State.

The City will also install utility lines under Cottonwood Creek at the location of the dual culvert in 2010. Utility lines will be installed by removing the existing culverts and using cut and cover trenching. This work will be done when the creek is dry and the area of disturbance will be entirely located within the area of existing culvert and soil fill. The culvert and fill will be permanently removed in Phase 2, when the crossing is no longer needed.

Phase 2 (2013/2014): Restoration on the Crosswinds property along Cottonwood Creek in Conservation Area 2, including permanent removal of the twin culvert, will occur in 2013/2014 in parallel with construction of three of the new Crosswinds bridges (Bridges #1, #2, and #4) and the four 24-inch new outfalls to Arroyo Las Positas. Prior to impacting waters of the State in the implementation of Phase 2, the Applicant shall acquire a fee interest in the area of the Crosswinds property that includes Conservation Area 2, and the Applicant shall record a deed restriction for all riparian planting areas in Conservation Area 2 (which are all below top of bank). This deed restriction shall prohibit future conversion of the mitigation areas and shall run with the land.

Required Mitigation Areas for Project Impacts: The amounts and locations of required mitigation for the Project's impacts are as follows:

Portions of Conservation Area 1: 0.30 acres of floodplain bench planting and riparian planting in Conservation Area No.1, consisting of 0.082 acres of floodplain bench planting and 0.219 acres of riparian planting (see Sheet P-4, Conservation Area 1 Planting Plan Cont., in

Attachment E to this certification), will provide mitigation for permanent impacts to 0.10 acres of Arroyo Los Positas and 0.10 acres of temporary impacts to Arroyo Las Positas and Cottonwood Creek. The permanent impacts will result from the construction of the JLB Extension Bridge, the multi-use regional trail bridge, and one outfall.

Portions of Conservation Area 2. 0.43 acres of floodplain bench planting and riparian planting in Conservation Area 2, consisting of 0.15 acres of floodplain bench planting and 0.28 acres of riparian planting, will provide mitigation for 0.20 acres of permanent impacts resulting from construction of four outfalls and three bridges at the Crossroads property. Removal of the twin culvert on Cottonwood Creek will also provide mitigation for the outfall impacts.

Removal of Two Bridges and Bank Restoration: 0.11 acres of Cottonwood Creek and Arroyo Las Positas will be restored after the removal of an abandoned bridge and a cow bridge. This will provide mitigation for 0.05 acres of permanent impacts resulting from the installation of Crosswinds Bridge No. 3 on Arroyo las Positas.

Mitigation Ditch: 3.06 acres (1,713 linear feet) of ditch, including 1.44 acres of seasonal wetlands, will be constructed as mitigation for impacts to 0.91 acres (1,350 linear feet) of ditch channel and 1.44 acres of seasonal wetlands.

Creek restoration: 0.98 acres of temporary impacts to Arroyo Las Positas, associated with the construction of new bridges and new outfalls, will be mitigated by the on-site restoration of creek banks and riparian vegetation at the temporary impact locations, and 0.01 acres of mitigation at Conservation Area 1.

Additional Restoration Areas: The following portions of the Specific Plan are not required as mitigation for Project impacts. The 1.81 acres of floodplain bench planting and riparian planting at Conservation Area 1, which are not required as mitigation for Project impacts, will be constructed when the Project-required portions of Conservation Area 1 are constructed and will be used by Zone 7 for mitigation of impacts to waters of the State associated with future Zone 7 projects. The buffer plantings along Conservation Areas 1 and 2, may be implemented at the Applicant's discretion:

Riparian Portion of Conservation Area 1: Of the 2.11 acres of floodplain bench planting (0.34 acres) and riparian planting zones (1.71 acres) proposed for Conservation Area 1, 1.81 acres of floodplain bench planting zone and riparian planting zone are in excess of the required mitigation for the Project. The Applicant will implement the entire amount of floodplain bench planting and riparian planting included in the Specific Plan, and the excess 1.81 acres of mitigation will be available for future use as mitigation by Zone 7.

Buffer Planting Portion of Conservation Areas 1 and 2: 5.14 acres of the planned buffer plantings in Conservation Area 1, and 1.10 acres of the planned buffer plantings in Conservation Area 2 are not required as mitigation for Project impacts, and are considered optional elements of the Project. Work within this area is not under the jurisdiction of the Water Board. If planting of native grasses and shrubs in the buffer planting zone (as proposed in Chapter 3 of the HMRMP) does not occur, the setback areas will be maintained as non-native grassland.

Monitoring, Maintenance, and Performance Standards: Wetland mitigation vegetation will be monitored for a minimum 5-year period after the initial wetland and channel creation actions occur. Riparian mitigation vegetation will be monitored for a minimum 10-year period after the initial riparian and floodplain bench grading occurs. The percentage of cover in seeded areas shall be monitored in years 1 through 5 to ensure that herbaceous vegetation is establishing in the designated areas. Monitoring and reporting will be performed by a qualified restoration ecologist.

Success criteria for wetland and riparian mitigation/restoration are summarized in Tables 2 and 3, respectively. Criteria are not proposed for the buffer planting zones, because the buffer zones are part of the El Charro Specific Plan, but not part of the required mitigation.

Table 2. Performance Standards and Success Criteria for Wetland Mitigation

Year	Performance Standard	Criterion
1 – 4	Demonstrate trend of increasing cover and species dominance	
5		75% cover of wetland species Species dominance; native wetland species dominant in all strata

Note: Replacement plantings planted due to failure to meet the success criteria will be monitored for the full monitoring period as initial plantings.

Table 3. Performance Standards and Success Criteria for Floodplain Bench and Riparian Zone Plantings

Year	Performance Standard	Criterion	Planting Zone
1	90% survival in good or fair condition		Floodplain bench and riparian planting zones
2	85% survival in good or fair condition		Floodplain bench and riparian planting zones
3	80% survival in good or fair condition		Floodplain bench and riparian planting zones
4	75% survival in good or fair condition		Floodplain bench and riparian planting zones
5		75% survival in good or fair condition	Floodplain bench planting zones
6 – 10		70% survival in good or fair condition	Riparian planting zone
6 – 9	Demonstrate trend of increasing cover		Floodplain bench and riparian planting zones
10		70% cover by riparian species	Floodplain bench planting zone
		Demonstrate trend of increasing cover and sustained good or fair vigor in Years 5 – 10	Riparian planting zone
		Species dominance; native riparian species dominant in all strata	Floodplain bench and riparian planting zone

Note: Replacement plantings planted due to failure to meet the success criteria will be monitored for the full monitoring period as initial plantings.

Dead riparian or wetland plantings will be replaced within one year of survival falling below performance criteria. Replacement planting procedures will be consistent with the procedures described in Chapter 3 of the HMRMP. Any mitigation site that fails to meet its annual vegetation performance standards will be assessed for remedial action, which will be implemented as soon as feasible, and may include additional planting of the same species and/or a shift in the planting palette, if the Applicant can demonstrate, on the basis of monitoring results, that the originally specified plants are not suitable to the mitigation site. Proposed changes in the planting palette shall be submitted to the resource agencies for approval. Replacement plantings will be consistent with the procedures described in Chapter 2 of the HMRMP.

Geomorphic stability of the mitigation ditch and the floodplain benches will be monitored several times each year: during at least one major storm event early in the season, during at least one major mid-season event, and following each year's storm season. Any of the following indicators may indicate channel instability: marked headcutting; marked channel incision or downcutting; substantial bank erosion or lateral channel migration; or excessive sedimentation or aggradation. If any of these conditions are observed, site progress will be considered unsatisfactory and additional channel stabilization measures may be needed.

Site Maintenance During Monitoring Period: Maintenance activities will include, but are not limited to, the following: inspecting and repairing exclusion fencing and No Trespassing/ Sensitive Habitat Area signage; inspecting and repairing or replacing herbivore controls; controlling invasive nonnative vegetation; start-up and emergency irrigation. Additional detail on each type of activity is provided in Chapter 4 of the HMRMP.

Monitoring Reports: The Applicant shall submit annual monitoring reports to document monitoring activities; monitoring results; overall site progress; and any remedial actions taken during the prior year. Monitoring reports are due by November 30 of each year of the monitoring program.

CEQA Compliance: The California Environmental Quality Act (CEQA) requires all discretionary projects approved by public agencies to be in full compliance with CEQA, and requires a lead agency to prepare an appropriate environmental document (e.g., Environmental Impact Report or Negative Declaration) when necessary for such projects. The City of Livermore prepared the *Environmental Impact Report (EIR) for the El Charro Specific Plan* (State Clearinghouse No. 2006052112). A Notice of Determination for the EIR was filed by the City with the Alameda County Clerk on July 26, 2007. The Water Board is a responsible agency under CEQA. I have considered the EIR and find that all significant impacts identified therein have been mitigated to less than significant levels. There have been no changes to the project, the circumstances under which it is being undertaken or new information of substantial importance that require major revisions of the EIR due to significant environmental effects or a substantial increase in the severity of previously identified impacts.

Wetland Tracker System: It has been determined through regional, state, and national studies that tracking of mitigation/restoration projects must be improved to better assess the performance of these projects, following monitoring periods that last several years. To effectively carry out the State's No Net Loss Policy for wetlands, the State needs to closely track both wetland losses and mitigation/restoration project success. Therefore, we require that the Applicant use a standard form to provide Project information related to impacts and mitigation/restoration measures. An electronic copy of the form and instructions can be downloaded at: http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml. Project information concerning impacts and mitigation/restoration will be made available at the web link: http://www.californiawetlands.net.

Certification and General Waste Discharge Requirements: I hereby issue an order certifying that any discharge from the referenced Project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the federal Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this Water Quality Certification. The following conditions are associated with this certification:

1. No debris, rubbish, creosote-treated wood, soil, silt, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, oil or petroleum products or other organic or earthen material shall be allowed to enter into, or be placed where it may be washed by rainfall or runoff into waters of the State. Any of these materials placed within or where they may enter waters of the State by the Applicant or any party working under contract, or with the permission of the Applicant shall be removed immediately. When construction is completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the State. During construction, the contractor shall not dump any litter or construction debris within the riparian/stream zone. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site;
2. The Applicant shall adhere to the terms of the Clean Water Act Section 404 Individual Permit issued by the Army Corps of Engineers (ACOE File No. 400239);
3. The Applicant shall adhere to the conditions imposed by the California Department of Fish and Game (CDFG) in the Streambed and Lake Alteration Agreement (Notification No. 1600-2007-0210-3) issued for the Project;
4. Construction in stream channels is restricted to the April 1 to October 31 dry season, or to the end of any extension granted by the CDFG;
5. No equipment shall be operated in areas of flowing or standing water; no fueling, cleaning, or maintenance of vehicles or equipment shall take place within any areas where an accidental discharge to waters of the State may occur; and construction materials and heavy equipment must be stored outside of the creek channel;
6. Prior to the start of the rainy season, the Applicant shall ensure that disturbed areas of waters of the State and disturbed areas that drain to waters of the State are protected with correctly installed erosion control measures (e.g., jute, straw, coconut fiber erosion control fabric, coir logs, etc.), and/or revegetated with propagules (seeds, cuttings, divisions) of locally collected native plants;
7. Where areas of bare soil are exposed during the rainy season, silt control measures shall be used where silt and/or earthen fill threaten to enter waters of the State. Silt control structures shall be monitored for effectiveness and shall be repaired or replaced as

needed. Buildup of soil behind silt fences shall be removed promptly and any breaches or undermined areas repaired at once;

8. Groundwater or accumulated stormwater removed during dewatering of excavations shall not be discharged directly to waters of the State without meeting the following conditions: any groundwater or accumulated stormwater released to waters of the State shall not exceed 110 percent of the ambient turbidity of the receiving water, if receiving water turbidity is greater than 50 NTU, or 5 NTU above ambient turbidity if the ambient turbidity is less than or equal to 50 NTU; any groundwater discharged to waters of the State shall have a pH in the range of 6.5 to 8.5;
9. If groundwater or accumulated stormwater is discharged from the Project site, the Applicant shall monitor the turbidity of the discharged water once every 15 minutes during the startup phase of any turbidity reduction equipment and at two-hour intervals after the discharged turbidity achieves steady state levels that are in compliance with Condition 8. The pH of discharged water shall be measured daily. All required monitoring measurements shall be recorded, along with a daily estimate of the flow rate and volume of water discharged, and submitted to the Water Board within 7 days of the end of any month in which groundwater or accumulated stormwater is discharged from the Project site;
10. The Project shall be constructed in conformance with the Project description in this certification and in conformance with the figures included in Attachments A and D to this certification. Any changes to these plans that may impact waters of the State must be submitted to the Water Board's Executive Officer for review and approval before they are implemented;
11. Within 30 days of the first Project-related disturbance of waters of the State, the Applicant shall provide the Executive Officer of the Water Board with written notification that the Project has disturbed waters of the State;
12. Within 30 days of completing construction of any component of the Project that impacts waters of the State (e.g., outfalls, channel dewatering systems, falsework, restoration of disturbed banks, mitigation wetlands, floodplain benches, bridge removal, culvert removal, etc.), the Applicant shall provide the Executive Officer of the Water Board with written notification that construction of the Project component is complete;
13. The Applicant shall implement all mandatory mitigation measures presented in the *Final Habitat Mitigation, Restoration and Monitoring Plan, El Charro Specific Plan Project* (HMRMP) (ICF Jones & Stokes, November 2009), as well as the additional 1.81 acres of floodplain bench planting and riparian planting in Conservation Area 1, as follows:
    a) In Conservation Area 1, the Applicant shall create at least 0.34 acres of floodplain bench planting and 1.77 acres of riparian planting (Phase 1 Mitigation Activity);
    b) In Conservation Area 2, the Applicant shall create at least 0.15 acres of floodplain bench planting and 0.28 acres of riparian planting (Phase 2 Mitigation Activity);

c) In the Mitigation Ditch, the Applicant shall create at least 1.46 acres of seasonal wetlands within the 3.06-acre footprint of the Mitigation Ditch (Phase 1 Mitigation Activity);

d) 0.11 acres of Cottonwood Creek and Arroyo Las Positas shall be restored after the removal of two existing bridges on the Crosswinds property (Phase 1 Mitigation Activity);

e) 0.98 acres of temporary impacts to Arroyo Las Positas, associated with the construction of new bridges and new outfalls, shall be mitigated, in part, by the on-site restoration of creek banks and riparian vegetation at the temporary impact locations (Phase 1 Mitigation Activity);

f) Within the Zone 7 Water Agency's riparian mitigation area for impacts authorized by Water Board Order No. 95-179, two valley oaks and four California wild roses will be planted as mitigation for impacts associated with outfall construction for the Project (Phase 1 Mitigation Activity); and

g) Permanent removal of the twin culvert in Cottonwood Creek at the Crosswinds property, along with the construction of three in-channel grade control structures to stabilize the channel bed (Phase 2 Mitigation Activity).

Implementation measures shall include, but are not limited to the monitoring and maintenance provisions in the HMRMP (note: portions of Conservation Area 1 and the buffer planting areas are not required as mitigation for Project impacts, but all of Conservation Area 1 will be constructed as part of Phase 1). The conservation areas and mitigation wetland ditch shall be designed and constructed as described in Chapter 3 of the HMRMP and the sheets in Attachment E to this certification, and monitored and maintained as described in Chapter 4 of the HMRMP, until the performance standards and success criteria in Tables 2 and 3 of this certification and Chapter 2 of the HMRMP are attained. Phase 1 mitigation activities (restoration of Conservation Area 1, removal of the two existing bridges on the Crosswinds property, restoration of creek banks at the former bridge sites, creation of the Mitigation Ditch, and replanting of riparian vegetation at the Zone 7 Mitigation Area) shall be constructed and planted within 12 months from the first Phase 1 disturbance of waters of the State. Phase 2 mitigation activities (Conservation Area 2, including permanent removal of the twin culvert) shall be constructed and planted within 12 months from the first permanent Phase 2 disturbance of waters of the State. Any changes to the HMRMP, including but not limited to changes to the site layout, planting palette, performance standards, success criteria, or timelines, must be submitted to the Water Board's Executive Officer for review and approval before they are implemented;

14. If the Applicant fails to implement mitigation measures required as mitigation for Project impacts within the time schedule described in Condition 13, the Applicant shall be responsible for providing additional mitigation to compensate for the additional temporal loss of habitat. The proposal to provide additional mitigation shall be submitted to the Executive Officer of the Water Board for review and approval. Failure to design and implement additional mitigation per this condition of certification within one year of

failing to meet the time schedule in Condition 13 will result in an increased requirement for mitigation;

15. Unless allowed pursuant to Condition 17, below, or unless allowed in the HMRMP or future revisions thereof that have been approved in advance in writing by the Water Board or its Executive Officer, the following activities are prohibited within Conservation Areas 1 and 2:
    a) Unseasonal watering, use of fertilizers, pesticides, biocides, use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals;
    b) Depositing or allowing the uncontained accumulation of trash, ashes, garbage, waste, or any similar other material;
    c) Removing, destroying, or cutting of native trees, native shrubs, or other native vegetation, except as required for the prevention or treatment of disease, abatement of weeds or invasive plants, and implementation of the HMRMP;
    d) Introduction of non-native, exotic, or invasive species;
    e) Use of vehicles off designated roadways unless necessary to implement the HMRMP or for emergency fire management or personal safety;
    f) Paving or otherwise covering of Conservation Area 1 or Conservation Area 2 with concrete, asphalt, or any other impervious paving material;
    g) Filling, dumping, excavating, draining, dredging, mining, or drilling;
    h) Removing or exploring for or extraction of minerals, loam, sands, gravel or other material on or below the surface;
    i) Altering the surface or general topography, including building of roads, or construction of temporary or permanent structures, except as necessary for maintenance or restoration of the improvements authorized by this certification; and
    j) Removal, destruction, cutting of native trees, or other native vegetation for fire prevention purposes, without written approval by the Water Board's Executive Officer, except for removal of dry or dead debris and mowing of dry grasses;

16. Unless expressly allowed pursuant to Condition 18, below, or unless allowed in the HMRMP, or future revisions thereof that have been approved in advance in writing by the Water Board or its Executive Officer, the following activities are prohibited within the Mitigation Ditch:
    a) Unseasonal watering, use of fertilizers, pesticides, biocides, use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals;
    b) Depositing or allowing the uncontained accumulation of trash, ashes, garbage, waste, or any similar other material;
    c) Removing, destroying, or cutting of native shrubs or other native vegetation, except as required for the prevention or treatment of disease, abatement of weeds or invasive plants, and implementation of the HMRMP;
    d) Introduction of non-native, exotic, or invasive species;
    e) Use of vehicles off designated roadways unless necessary to implement the HMRMP or for emergency fire management or personal safety;

f) Paving or otherwise covering of the Mitigation Ditch with concrete, asphalt, or any other impervious paving material;
g) Filling, dumping, excavating, draining, dredging, mining, or drilling;
h) Removing or exploring for or extraction of minerals, loam, sands, gravel or other material on or below the surface;
i) Altering the surface or general topography, including building of roads, or construction of temporary or permanent structures, except as necessary for maintenance or restoration of the improvements authorized by this certification; and
j) Removal, destruction, or cutting of native vegetation for fire prevention purposes, without written approval by the Executive Officer of the Water Board, except for removal of dry or dead debris and mowing of dry grasses;

17. Notwithstanding the foregoing restrictions, the following activities may occur in Conservation Area 1 and Conservation Area 2:
    a) Maintenance and repair of the banks of Arroyo Las Positas or Cottonwood Creek for flood control purposes, provided that Zone 7 or City of Livermore shall receive written permission from the Executive Officer of the Water Board regarding the time, location, and manner of such activities and shall obtain from the Water Board any necessary permits or approvals in accordance with a multi-year maintenance permit.
    (b) Engaging in uses and activities necessary or appropriate to implement the HMRMP.
    (c) Control of entry upon the Protected Property, including, without limitation, the installation and maintenance of signs or fences that do not impede the movement of wildlife;
18. Notwithstanding the foregoing restrictions, the following activities may occur in the Mitigation Ditch:
    a) Maintenance and repair of access roads or of the bed and banks of the Mitigation Ditch for drainage and invasive species removal purposes, provided that the City of Livermore shall receive written permission from the Executive Officer of the Water Board regarding the time, location, and manner of such activities and shall obtain from the Water Board any necessary permits, or approvals in accordance with a multi-year maintenance permit.
    (c) Engaging in uses and activities necessary or appropriate to implement the HMRMP.
    (d) Control of entry upon the Protected Property, including, without limitation, the installation and maintenance of signs or fences that do not impede the movement of wildlife;
19. Prior to any discharge to waters of the State in the implementation of Phase 1 of the Project, the Applicant shall execute and record a deed restriction over the Mitigation Ditch that is in a form and content acceptable to the Executive Officer of the Water Board (see Attachment F to this certification) that reflects the restrictions set forth in Conditions 16 and 18 and that requires compliance with the mandatory provisions of the

HMRMP (the text of which plan shall be recorded as an attachment to the deed restriction). The deed restriction shall include a legal description of the portions of Assessor's Parcel Numbers 904-0001-010 and 904-0001-003-01 that contain the Mitigation Ditch and against which the restriction is to be recorded (see Legal Description of the area including the Mitigation Ditch in Attachment F to this certification). The deed restriction shall run with the land, binding all successors and assigns. The deed restriction shall not be removed or changed without an amendment to the certification approved by the Water Board or its Executive Officer;

20. Prior to any discharge to waters of the State in the implementation of Phase 1 of the Project, the Applicant shall provide the Executive Officer of the Water Board with copies of the deed restrictions executed by Zone 7 and the Applicant over Conservation Area 1; these deed restrictions over Conservation Area 1 are be in a form and content acceptable to the Executive Officer of the Water Board (see Attachment F) that reflects the restrictions set forth in Conditions 15 and 17 and that requires compliance with the mandatory provisions of the HMRMP (the text of which plan shall be recorded as an attachment to the deed restriction). The deed restriction submitted by Zone 7 shall include a legal description of the portion of Assessor's Parcel Number 904-0001-003-23 that contains the portion of Conservation Area 1 that is owned by Zone 7 and against which the restriction is to be recorded (see Legal Description of the area including Conservation Area 1 in Attachment F to this certification). The deed restriction submitted by the Applicant shall include a legal description of the portions of Assessor's Parcel Numbers 904-0001-010 and 904-0001-003-01 that contain the portions of Conservation Area 1 that is owned by the Applicant and against which the restriction is to be recorded (see Legal Description of the area including Conservation Area 1 in Attachment F to this certification). The deed restrictions shall run with the land, binding all successors and assigns. The deed restrictions shall not be removed or changed without an amendment to the certification approved by the Water Board or its Executive Officer;

21. Prior to any discharge to waters of the State in the implementation of Phase 2 of the Project, the Applicant shall obtain fee title to Conservation Area 2 and shall execute and record a deed restriction over Conservation Area 2 that is in a form and content acceptable to the Executive Officer of the Water Board (see Attachment F) that reflects the restrictions set forth in Conditions 15 and 17 and that requires compliance with the mandatory provisions of the HMRMP (the text of which plan shall be recorded as an attachment to the deed restriction). The deed restriction shall include a legal description of the portions of Assessor's Parcel Number 904-0001-001-10 that contain Conservation Area 2 and against which the restriction is to be recorded (see Legal Description of the area including Conservation Area 2 in Attachment F to this certification). The deed restriction shall run with the land, binding all successors and assigns. The deed restriction shall not be removed or changed without an amendment to the certification approved by the Water Board or its Executive Officer. The Applicant shall provide a copy of the completed dedication documents from the landowner of the private land on the

Crosswinds property to the City of Livemore and the deed restriction to the Water Board prior to initiating any Phase 2 activities with permanent impacts in waters of the State;

22. The Applicant is responsible for providing additional compensatory mitigation in the event that any of the mandatory mitigation sites described in Condition 13 either: fail to attain their success criteria, as presented in the HMRMP; or have the attainment, or maintenance of attainment, with their success criteria compromised by the performance of activities that are prohibited by the Deed Restrictions over these mitigation sites; or fail to have Deed Restrictions executed and recorded over any of the mitigation sites within the time schedules required by Conditions 19, 20, and 21 of this certification. For any of the mitigation sites that fail to attain or maintain success criteria, or fail to have Deed Restrictions executed, the Applicant shall provide mitigation equivalent to the originally required mitigation, plus an additional 10 percent increase in the area of mitigation for each year between the initial discharge to waters of the State and the implementation of additional mitigation. Any necessary plans for additional mitigation must receive written approval from the Executive Officer of the Water Board before they are implemented. However, any mitigation required by this condition must be provided within twelve months of either a failure to meet final success criteria, violations of the terms of a Deed Restriction or a failure to record Deed Restrictions in the time required by the conditions of this certification;

23. If Conservation Area 1 fails to meet the success criteria in the HMRMP due to actions performed by Zone 7 or due to the failure of Zone 7 to allow the Applicant access to Conservation Area 1, the Applicant remains responsible for providing the additional mitigation required by the prior Condition of this certification;

24. The Applicant shall provide long-term management of the required floodplain bench and riparian mitigation components of Conservation Areas 1 and 2 and long-term management of the required wetland mitigation components of the Mitigation Ditch, as well as the required replanting of vegetation in Zone 7's mitigation project (See Condition 13.f);

25. Within Conservation Area 1, the Applicant and the Zone 7 Water Agency shall enter into a maintenance agreement for the portion of Arroyo Las Positas that is owned by the Zone 7 Water Agency. Prior to any discharge to waters of the State in the implementation of Phase 1 of the Project, the Applicant shall provide the Executive Officer of the Water Board with a copy of this agreement that has been signed by appropriate representatives of Zone 7 and the Applicant, in the form that has been approved by the Water Board (see Attachment G to this certification);

26. The Applicant is responsible for funding maintenance and long-term management of the required mitigation and restoration areas described in this certification and the HMRMP. Funding shall be provided by creating a Landscape Maintenance District (LMD) for the El Charro Specific Plan properties. Until the LMD is established, a maintenance endowment shall be established by the Applicant to fund maintenance of Conservation Areas 1 and 2 in perpetuity. The principal in the endowment shall generate sufficient revenue to cover the costs described in the HMRMP, including funding for any extended monitoring and

maintenance activities, as well as contingency measures, that the Water Board's Executive Officer may determine are necessary to meet the mitigation requirements for the Project. The endowment account or the LMD will be established prior to construction in any waters of the State and proof of establishment will be provided to the Executive Officer of the Water Board prior to impacting waters of the State. After the LMD is established, the Applicant shall provide documentation of its establishment and funding to the Executive Officer of the Water Board, at which time the maintenance endowment account may be closed if the Executive Officer of the Water Board approves the LMD. The maintenance endowment shall cover invasive species assessment and eradication, trash/trespass monitoring, trash removal/trespass repair, fire control measures consistent with maintaining the habitat value of the conservation areas (fuels reduction), fence repair, fence replacement, equipment, other infrastructure monitoring and repair, and monitoring;

27. The Applicant shall conduct interim inspections during construction of the mitigation sites to ensure that each mitigation site is fully and properly constructed and planted, as specified in the HMRMP. Areas that do not conform to the plans in the HMRMP shall be reevaluated and may require regrading or replanting, at the discretion of the Executive Officer of the Water Board;

28. The Applicant shall be responsible for funding and implementing all components of the HMRMP that are required as mitigation for the Project's impacts, including contracting directly for services necessary for earthwork, site preparation, revegetation, monitoring, adaptive management, and contingency measures;

29. The Applicant shall ensure that all surfaces disturbed by mitigation/restoration area implementation shall be seeded after construction. During the maintenance and monitoring period, any bare areas of soil shall be reseeded with the original seed mix, at the rate specified in the construction documents;

30. Plant and seed material shall be propagated from locally collected stock in the Alameda Creek watershed, or if propagation material is available, within the Arroyo Las Positas or Arroyo Mocho watersheds. The propagation will then be used by a native plant nursery to prepare nursery grown container stock in healthy condition. Willows will be installed as pole cuttings from plants within the project area. The seed material will be State-certified seed from the most recent growing season and will be provided in the original sealed bags bearing the supplier's guaranteed analysis;

31. The Applicant is responsible for maintaining and repairing all mitigation/restoration-related hardscape features (e.g., ditch inlets and storm drains, fences, and signs) on an as-needed basis. If repairs are necessary, these features shall be repaired to the conditions specified in the construction documents;

32. The Applicant shall inspect the mitigation/restoration planting zones for evidence of excessive erosion, vandalism, or other problems, and to identify necessary repairs or remedial measures. Maintenance inspections shall be conducted in early October and in March. At least one inspection shall be performed following a major storm event each year. If remediation is required because of flooding, fire, vandalism, or other damage, the

Applicant shall confer with the resource agencies on the remediation actions and implement the required actions to restore all of the mitigation/restoration areas according to the original mitigation/restoration design;

33. Within 90 days of constructing/restoring and planting of each of the Project's required mitigation sites (e.g., floodplain benches, riparian planting zones, and bridge and culvert removal areas), the Applicant shall submit as-built drawings to the Water Board. As-built drawings shall indicate the: extent of each restored wetland and other waters of the State (in plan view); extent of the riparian planting zones (in plan view); location of photo documentation stations; seeded areas; and other pertinent features. Any changes from the original mitigation/restoration construction plans shall be indicated in indelible red ink; and significant changes shall be coordinated with and approved by the resource agencies before the start of the maintenance period. As-built drawings shall depict the boundaries between existing and restored habitat areas, and will include documentation at scale sufficiently detailed to show individual plantings of trees and shrubs;

34. During the maintenance period, a set of as-maintained drawings shall be kept by the Applicant to record how the sites have been modified subsequent to the preparation of the as-built drawings (e.g., changes to the irrigation system or plant quantities, locations, or species). The as-maintained drawings shall be updated each time management actions that change the condition of any of the mitigation sites are performed, including installation of replacement plantings. As-maintained drawing shall be submitted to the Water Board with the annual reports (see Condition 40);

35. The progress of each mitigation/restoration area toward achieving success criteria shall be documented photographically. Permanent photo documentation stations shall be established at several locations in each mitigation/restoration area. Photo documentation stations shall be permanently marked using a metal T-post, or other method approved by the Applicant, and shall be identified on a map or by using a GPS receiver. Photographs shall be taken each winter to document storm-season conditions (e.g., ponding in wetlands) and each spring to document vegetative development. The Applicant shall clearly mark the photo-documentation points in the as-built map for each required mitigation site. Following construction of each mitigation site, the Applicant shall photographically document the immediate post-construction condition of the site and submit the post-construction photographs and the map with the photo-documentation points to the Water Board, along with the as-built drawings of the mitigation sites (see Condition 33);

36. The wetland Mitigation Ditch site shall be monitored for a minimum period of five years, until the Final Success Criteria in Table 2 of this certification are achieved for the number of acres specified in Table 1, and riparian mitigation sites shall be monitored for a minimum of ten years, until the Final Success Criteria in Table 3 of this certification are achieved over the acres specified in Table 1. The percentage of cover in seeded areas shall be monitored in years 1 through 5 to ensure that herbaceous vegetation is establishing in the designated areas. If performance standards in Tables 2 and 3 are not

achieved in any of the monitoring years, the Applicant is responsible for implementing remedial actions and extending the monitoring period to track the success of the remedial measures, until the Final Success Criteria in Tables 2 and 3 are attained over the acres required in Table 1;

37. Percent survival of plants shall be evaluated individually for each planted species. If the performance standards or success criteria are not achieved, dead or missing plants must be replaced in kind, unless the Applicant demonstrates, on the basis of monitoring data, that a mitigation site is not conducive to survival of a plant species, in which case alternate native plant species may be used, with the concurrence of the Executive Officer of the Water Board. Replacement plantings must be made within one year of survival rates failing to meet the performance standards or success criteria. Replacement plants shall be monitored for a minimum of five years from the date of replanting for shrubs and ten years from the date of replanting for trees. Replacement plants are subject to the same performance standards and success criteria as the initial plantings. Only shrubs and trees that have survived for at least two years without irrigation shall be used in assessing attainment of final success criteria;

38. During the initial ten-year riparian monitoring program, prior to and following each wet season, the Applicant shall monitor the geomorphic stability of the flood plain benches and graded channel banks in Arroyo Las Positas and Cottonwood Creek. Corrective actions shall be implemented if channels display any of the following potential indicators of channel instability: marked headcutting; marked channel incision or downcutting; substantial bank erosion, bank slumping, or lateral channel migration; or excessive sedimentation or aggradation. Such corrective actions shall be implemented within 24 months of noting evidence of channel instability;

39. During the initial five-year wetland monitoring program, the Applicant shall monitor the hydrology and geomorphic stability of the wetland Mitigation Ditch to assess whether or not the required segments of the Ditch receive sufficient moisture to exhibit wetland vegetation, soils, and hydrology, and to assess the stability of the Ditch. Corrective actions shall be implemented if the Ditch fails to exhibit wetland vegetation, soils, or hydrology, or if the Ditch displays any of the following potential indicators of channel instability: substantial bank erosion, bank slumping, or lateral channel migration; or excessive sedimentation or aggradation. Such corrective actions shall be implemented within 12 months of noting evidence of channel instability or failure to exhibit wetland indicators;

40. In conformance with Chapter 2 of the HMRMP, the Applicant shall prepare an annual monitoring report and submit it to the resource agencies by November 30 of each monitoring year (note: because monitoring sites may be constructed in several years, each report may document a different year of the minimum required monitoring period for each site). Each monitoring report shall include the following: the ACOE project file number, the Water Board Site Number (02-01-C0945) and the California Department of Fish and Game notification number; a summary of the project location and description; a

summary of the monitoring methods; a summary and analysis of the monitoring results, including an evaluation of site conditions in the context of the performance standards and success criteria; a discussion of the monitoring results; management recommendations, including discussion of areas with inadequate performance and recommendations for remedial action; a discussion of modifications made to the monitoring methods; a discussion of the previous year's maintenance efforts; and photo documentation of the restored wetland and channel areas using photographs taken from the photo documentation stations (see Condition 35). At the end of year 5 for wetland mitigation sites and the end of year 10 for riparian mitigation sites, a comprehensive final report shall be prepared that includes summaries of the monitoring data, representative photos, and maps. The final report shall document if each mitigation site meets the performance standards in Tables 2 and 3 of this certification, over the areas required in Table 1, and shall include a delineation of jurisdictional wetlands created in the Mitigation Ditch;

41. Annual reports shall include an evaluation of channel stability at the floodplain benches, riparian planting zones, and Mitigation Ditch (see Conditions 38 and 39). If the Mitigation Ditch is not geomorphically stable at the end of year 5 or the floodplain benches are not stable at the end of year 10, the Applicant shall work with the Water Board to prepare an analysis of the cause of the instability. If deemed necessary by the regulatory agencies, remedial actions shall be implemented by the Applicant;

42. At the end of the initial five-year wetland monitoring period and at the end of the initial ten-year riparian monitoring period, if the success criteria in the HRMRP and this certification have not been met for wetlands and riparian mitigation sites, the Applicant shall submit an analysis of the causes of failure to the Executive Officer of the Water Board and the other resource agencies. If determined necessary by the resource agencies, the City shall propose remedial actions (e.g., repairing eroded channel banks in floodplain bench creation areas; and replanting or reseeding areas with low vegetative cover) for Water Board approval. If monitoring results indicate that restoration is unlikely to be successful, contingency procedures, such as the use of alternate sites, approved mitigation banks in the Alameda Creek watershed, or financial contributions to a mitigation site consistent with an approved conservation strategy may be considered. The Applicant is responsible for funding any mitigation contingency actions;

43. Control of invasive vegetation, as required in Chapter 4 of the HMRMP, shall be undertaken in a manner that minimizes disturbance to desirable native species and to bird and wildlife use in restored areas. Weeds shall be removed inside plant protection screens, within the planting basins, and around stands of herbaceous plug plants throughout the maintenance period. If mowing of native grasses on upland areas is needed during the plant establishment period, the mower will be set to retain vegetation to a height of no less than six inches. Any revegetation plantings damaged during weed control maintenance activities shall be replaced in kind, within one year of plant damage at a 1:1 ratio. Replacement plantings shall be propagated from locally native stock, and shall be as similar in size to the damaged plant as possible. Control of invasive plants and any replacement plantings shall be described in the annual reports (see Condition 40);

44. The Applicant shall water woody and herbaceous container plant material in the floodplain bench and riparian planting zones for a minimum of three years following initial installation of the mitigation/restoration areas, as well as during all projected dry water years (defined as 75 percent of average annual rainfall) that occur during the first five years after planting. Any replacement plants (see Condition 37) shall be watered for a minimum of three years. Wetland and grass plug plantings and seeded areas in the Mitigation Ditch shall be irrigated on an as-needed basis if vegetation appears to be drought stressed during the plant establishment period;

45. The Applicant is required to use the standard form to provide project information within fourteen days from the date of this water quality certification. An electronic copy of the form can be downloaded at: http://www.waterboards.ca.gov/sanfranciscobay/certs.shtml. The completed electronic form shall be returned to habitatdata@waterboards.ca.gov or a hard copy to both: 1) San Francisco Bay Regional Water Quality Control Board (see letterhead for address), to the attention of Wetland Tracker, and 2) San Francisco Estuary Institute, 7770 Pardee Lane, Oakland, CA 94621-1424, to the attention of Mike May;

46. In accordance with CWC §13260, the Discharger shall file with the Water Board a report of any proposed change in the ownership or any material change in character, location, or quantity of this waste discharge. Any proposed material change requires approval by the Executive Officer in advance of the proposed implementation of any change. Material change includes, but is not limited to, all significant new soil disturbances, all proposed expansions of development, or any change in drainage characteristics at the Project site. For the purpose of this certification action, this includes any proposed change in the boundaries of the area of wetlands or other waters of the State to be filled and mitigated;

47. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC Section 13330 and 23 CCR Section 3867;

48. This certification action does not apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to California Code of Regulations (CCR) Title 23, Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought; and

49. Certification is conditioned upon total payment of the full fee required in State Regulations (23 CCR Section 3833). The total fee for this Project is $10,189. The Water Board received partial fee payment of $500 in May 2007. The Water Board received the balance of the total fee ($9,689) on February 1, 2010.

Please be aware that any violation of water quality certification conditions is a violation of State law and subject to administrative civil liability pursuant to California Water Code (CWC) Section 13350. Failure to respond, inadequate response, late response, or failure to meet any condition of a certification or waiver may subject the Applicant to civil liability imposed by the Water Board to a maximum of $5,000 per day of violation or $10 for each gallon of waste discharged in violation of this action. Any requirement for a report made as a condition to this action (i.e., conditions 9, 11, 12, 13, 19, 20, 21, 25, 26, 33, 34, 35, 40, 45, and 46) is a formal requirement pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such requirement report is subject to civil liability as described in CWC Section 13268. Should new information come to our attention that indicates a water quality problem with this Project, the Water Board may issue Waste Discharge Requirements pursuant to 23 CCR Section 3857.

Please contact Brian Wines of my staff at (510) 622-5680 or bwines@waterboards.ca.gov if you have any questions. All future correspondence regarding this Project should reference the Site Number indicated at the top of this letter.

Sincerely,

Bruce H. Wolfe

Digitally signed by Bruce Wolfe
Date: 2010.08.31 17:52:16 -07'00'

Bruce H. Wolfe
Executive Officer

Attachments:

- A: Project Location Maps
- B: Impact and Mitigation Tables
- C: Mitigation and Restoration Planting Palettes
- D: Bridge Design Sheets
- E: Mitigation Feature Design Sheets
- F. Deed Restrictions
- G. Agreement (to comply with HMRMP and Deed Restrictions)

Cc via email: Bill Orme, SWRCB (Stateboard401@waterboards.ca.gov)
Jason Brush, EPA, WTR-8 (R9-WTR8-Mailbox@epa.gov)
USACE, San Francisco District, Attn: Regulatory Branch (File No. 400239), Robert Smith, 1455 Market Street, San Francisco, CA 94103–1398 (robert.f.smith@usace.army.mil)
USACE, Jane Hicks (jane.m.hicks@usace.army.mil)
USACE, Cameron Johnson (cameron.l.johnson@usace.army.mil)
USACE, Laurie Monarres (laurie.a.monarres@usace.army.mil)
CDFG, Marcia Grefsrud, Notification No. 1600-2007-0210-3 (mgrefsrud@dfg.ca.gov)
CDFG, Notification No. 1600-2007-0210-3 (sbrunson@dfg.ca.gov)
Jones & Stokes, Attn: Rich Walter (RWalter@icfi.com)
City of Livermore, Attn: Steve Stewart, Senior Planner (scstewart@ci.livermore.ca.us)
USACE, San Francisco District, Attn: Regulatory Branch (File No. 400239), 1455 Market Street, San Francisco, CA 94103–1398
USFWS, Attn: Kim Squires (kim_squires@fws.gov)
Zone 7, Carol D. Mahoney, Associate Engineer (cmahoney@zone7water.com)

EXHIBIT "B"

LEGAL DESCRIPTION FOR
EL CHARRO - HABITAT MITIGATION
AREA NO.1 (ARROYO LAS POSITAS)

MAP: RF 10137 **No. 70187**
PORTIONS (APN: 904-0001-003-23) (APN: 904-0001-010) AND (APN: 904-0001-003-01)

REAL PROPERTY SITUATED IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AS FOLLOWS:

ALL OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT RECORDED JUNE 17, 2004, SERIES NUMBER. 2004-272275, OFFICIAL RECORDS OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS BEING A PORTION OF PARCEL 2 (35.29 ± ACRES) OF PARCEL MAP 6332, FILED FEBRUARY 24, 1994, IN BOOK 213 OF PARCEL MAPS AT PAGES 6 THROUGH 9, INCLUSIVE, ALAMEDA COUNTY RECORDS;

ALSO A PORTION OF A CERTAIN PARCEL OF LAND ACQUIRED BY THE CITY OF LIVERMORE AS DESCRIBED IN THE FINAL ORDER OF CONDEMNATION, RECORDED FEBRUARY 26, 1991 UNDER RECORDERS SERIES NUMBER 91-075035, OFFICIAL RECORDS OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON POINT OF THE NORTHEASTERLY CORNER OF SAID PARCEL 2 OF PARCEL MAP 6332; AND THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (2004-272275);

THENCE LEAVING SAID COMMON POINT, ALONG THE SAID EASTERLY LINE, NORTH 01°28'32" EAST 40.25 FEET, MORE OR LESS TO THE POINT OF INTERSECTION THEREOF WITH THE EASTERLY LINE AND THE SOUTHERLY TOP OF THE CREEK BANK OF THE ARROYO LAS POSITAS AND THE POINT OF BEGINNING OF THIS DESCRIPTION;

1) THENCE ALONG THE SOUTHERLY BANK LINE OF THE ABOVE MENTIONED, SOUTHWESTERLY THE FOLLOWING THREE (3) COURSES;

    SOUTH 39°00'46" WEST, 20.09 FEET;

    THENCE SOUTH 51°34'45" WEST, 132.29 FEET;

    THENCE SOUTH 73°16'08" WEST, 202.78 FEET;

2) THENCE CONTINUING ALONG SAID SOUTHERLY BANK LINE, NORTHWESTERLY THE FOLLOWING TEN (10) COURSES;

    THENCE NORTH 88°16'29" WEST, 70.78 FEET;

    THENCE NORTH 69°33'28" WEST, 129.08 FEET;

    THENCE NORTH 50°36'01" WEST, 216.09 FEET;

    THENCE NORTH 38°51'43" WEST, 149.65 FEET;

    THENCE NORTH 82°18'12" WEST, 80.99 FEET;

THENCE NORTH 70°21'40" WEST, 112.95 FEET;

THENCE NORTH 59°19'21" WEST, 209.02 FEET;

THENCE NORTH 71°05'17" WEST, 149.07 FEET;

THENCE NORTH 27°58'22" WEST, 27.39 FEET;

THENCE NORTH 88°40'20" WEST, 80.68 FEET;

3) THENCE SOUTH 67°27'56" WEST, 198.64 FEET;

4) THENCE SOUTH 38°22'26" WEST, 28.59 FEET TO THE SOUTHWESTERN CORNER OF THIS CONSERVATION AREA;

5) THENCE NORTH 27°34'22" WEST, 41.70 FEET;

6) THENCE NORTH 22°54'59" WEST, 67.64 FEET TO THE NORTHERLY TOP OF BANK LINE OF THE MITIGATION DITCH;

7) THENCE EASTERLY ALONG SAID NORTHERLY TOP OF BANK LINE THE FOLLOWING TWENTY (20) COURSES;

THENCE NORTH 58°23'25" EAST, 6.55 FEET;

THENCE ALONG THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTH, WITH A RADIUS OF 46.00 FEET, FROM A RADIAL BEARING OF NORTH 30°29'34" EAST THROUGH A CENTRAL ANGLE 39°33'15", AN ARC LENGTH OF 31.76 FEET;

THENCE NORTH 80°56'19" EAST, 25.90 FEET TO BEGINNING OF THE TANGENT CURVE;

THENCE ALONG THE ARC OF SAID TANGENT CURVE CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 211.00 FEET, THROUGH A CENTRAL ANGLE 16°54'37", AN ARC LENGTH OF 62.28 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF SAID REVERSE CURVE CONCAVE TO THE SOUTHEAST, WITH A RADIUS OF 139.00 FEET, THROUGH A CENTRAL 10°37'27", AN ARC LENGTH OF 25.77 FEET;

THENCE NORTH 74°39'09" EAST, 104.68 FEET;

THENCE ALONG THE ARC OF TANGENT CURVE CONCAVE TO THE SOUTH, WITH A RADIUS OF 189.00 FEET, THROUGH A CENTRAL ANGLE 24°28'11", AN ARC LENGTH OF 80.72 FEET;

THENCE SOUTH 80°52'40" EAST, 94.02 FEET;

THENCE ALONG THE ARC OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, WITH A RADIUS OF 139.00 FEET, THROUGH A CENTRAL ANGLE 25°20'59", AN ARC LENGTH OF 61.50 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF SAID REVERSE CURVE CONCAVE TO THE NORTHEAST, WITH A RADIUS OF 611.39 FEET, FROM RADIAL BEARING NORTH 34°28'19" EAST THROUGH A CENTRAL ANGLE OF 13°29'15", AN ARC LENGTH OF 143.92 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF SAID REVERSE CURVE CONCAVE TO THE SOUTHWEST, WITH A RADIUS OF 339.00 FEET, FROM RADIAL BEARING OF

SOUTH 20°59'04" WEST, THROUGH A CENTRAL ANGLE OF 17°10'55", AN ARC LENGTH OF 101.66 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF SAID REVERSE CURVE CONCAVE TO THE NORTHEAST, WITH A RADIUS OF 211.00 FEET, FROM RADIAL BEARING OF NORTH 38°09'59" EAST, THROUGH A CENTRAL ANGLE OF 38°22'26", AN ARC LENGTH OF 141.32 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF SAID REVERSE CURVE CONCAVE TO THE SOUTHWEST, WITH A RADIUS OF 159.00 FEET, FROM RADIAL BEARING OF SOUTH 00°12'27" EAST, THROUGH A CENTRAL ANGLE OF 64°12'04", AN ARC LENGTH OF 178.16 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF SAID REVERSE CURVE CONCAVE TO THE NORTHEAST, WITH A RADIUS OF 151.00 FEET, FROM RADIAL BEARING OF NORTH 63°59'37" EAST, THROUGH A CENTRAL ANGLE OF 23°52'44", AN ARC LENGTH OF 62.93 FEET;

THENCE SOUTH 49°53'07" EAST, 173.92 FEET;

THENCE ALONG THE ARC OF A TANGENT CURVE CONCAVE TO THE NORTHEAST, WITH A RADIUS OF 211.00 FEET, THROUGH A CENTRAL ANGLE OF 43°25'23", AN ARC LENGTH OF 159.91 FEET;

THENCE NORTH 86°41'30" EAST, 101.84 FEET;

THENCE ALONG THE ARC OF A TANGENT CURVE CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 160.60 FEET, THROUGH A CENTRAL ANGLE OF 61°33'18", AN ARC LENGTH OF 172.54 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF SAID REVERSE CURVE CONCAVE TO THE SOUTHEAST, WITH A RADIUS OF 33.00 FEET, THROUGH A CENTRAL ANGLE OF 42°26'41", AN ARC LENGTH OF 24.45 FEET TO A POINT OF REVERSE CURVATURE;

THENCE ALONG THE ARC OF SAID REVERSE CURVE CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 37.00 FEET, FROM RADIAL BEARING OF NORTH 22°25'07" WEST, THROUGH A CENTRAL ANGLE OF 64°06'53", AN ARC LENGTH OF 41.37 FEET TO NORTHEASTERN CORNER OF THE BOUNDARY;

8) THENCE SOUTH 52°45'39" EAST, 90.27 FEET;

9) THENCE SOUTH 39°00'46" WEST, 37.60 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM A STRIP OF LAND TWENTY (20) FEET IN WIDTH FOR THE PURPOSE OF CLEANING AND MAINTAINING THE CREEK. SAID TWENTY FEET WIDE STRIP OF LAND IS TO FOLLOW THE NATURAL MEANDERING LAS POSITAS CREEK BOTTOM, AND INCLUDES THE RIGHT OF INGRESS AND EGRESS FOR SAID CLEANING AND MAINTENANCE OPERATIONS.

CONTAINING 2.623 ACRES (114,251.95 SF.) MORE OR LESS.

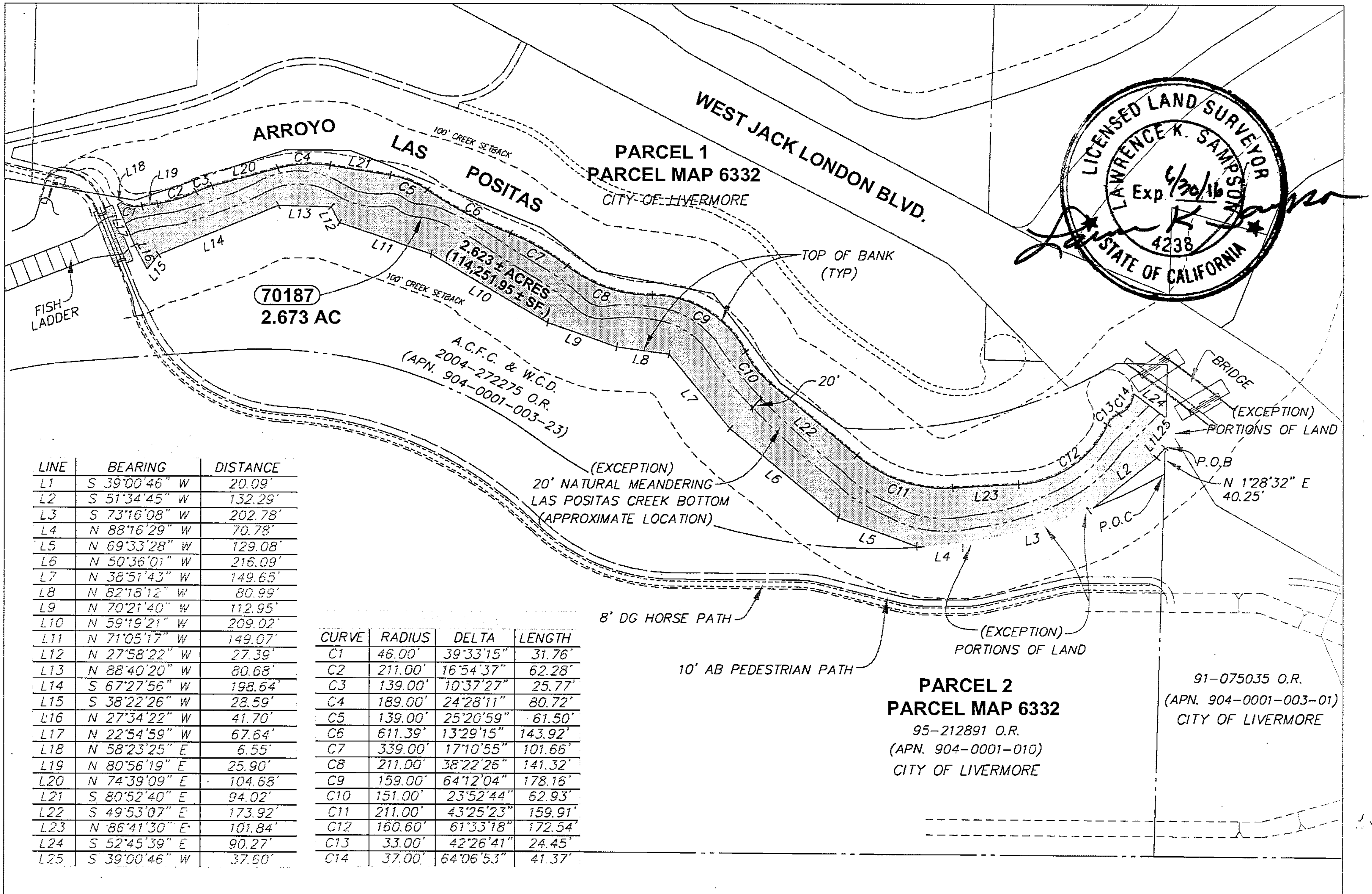
SEE PLAT ATTACHED HERETO AND MADE A PART HEREOF.

Lawrence K Sampson

LAWRENCE K. SAMPSON
PLS 4238, EXP. DATE 6/30/16

LICENSED LAND SURVEYOR
LAWRENCE K. SAMPSON
Exp 6/30/16
4238
STATE OF CALIFORNIA

October 8, 2014
DATE:



LINE	BEARING	DISTANCE
L1	S 39°00'46" W	20.09'
L2	S 51°34'45" W	132.29'
L3	S 73°16'08" W	202.78'
L4	N 88°16'29" W	70.78'
L5	N 69°33'28" W	129.08'
L6	N 50°36'01" W	216.09'
L7	N 38°51'43" W	149.65'
L8	N 82°18'12" W	80.99'
L9	N 70°21'40" W	112.95'
L10	N 59°19'21" W	209.02'
L11	N 71°05'17" W	149.07'
L12	N 27°58'22" W	27.39'
L13	N 88°40'20" W	80.68'
L14	S 67°27'56" W	198.64'
L15	S 38°22'26" W	28.59'
L16	N 27°34'22" W	41.70'
L17	N 22°54'59" W	67.64'
L18	N 58°23'25" E	6.55'
L19	N 80°56'19" E	25.90'
L20	N 74°39'09" E	104.68'
L21	S 80°52'40" E	94.02'
L22	S 49°53'07" E	173.92'
L23	N 86°41'30" E	101.84'
L24	S 52°45'39" E	90.27'
L25	S 39°00'46" W	37.60'

CURVE	RADIUS	DELTA	LENGTH
C1	46.00'	39°33'15"	31.76'
C2	211.00'	16°54'37"	62.28'
C3	139.00'	10°37'27"	25.77'
C4	189.00'	24°28'11"	80.72'
C5	139.00'	25°20'59"	61.50'
C6	611.39'	13°29'15"	143.92'
C7	339.00'	17°10'55"	101.66'
C8	211.00'	38°22'26"	141.32'
C9	159.00'	64°12'04"	178.16'
C10	151.00'	23°52'44"	62.93'
C11	211.00'	43°25'23"	159.91'
C12	160.60'	61°33'18"	172.54'
C13	33.00'	42°26'41"	24.45'
C14	37.00'	64°06'53"	41.37'

CHECKED BY: LKS
DRAWN BY: HI
DATE: 7/29/10

CITY OF LIVERMORE CALIFORNIA
COMMUNITY DEVELOPMENT DEPARTMENT - ENGINEERING DIVISION

EXHIBIT "B"
PLAT TO ACCOMPANY DESCRIPTION
EL CHARRO - HABITAT MITIGATION AREA NO.1
(ARROYO LAS POSITAS) - ZONE 7 PROPERTY

EX-B
Sheet 1
Of 1
Scale: 1"=50'

RF 10137

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Floodway/Floodplain Agreement and Maintenance Mitigation Area Agreement

WHEREAS, Zone 7 and the City of Livermore (City) entered into Agreement No. A11-83-LIV: *Agreement Between City of Livermore and Zone 7 of Alameda County Flood Control and Water Conservation District for the El Charro Specific Plan Area Flood Protection Improvements* (ECSP Agreement) on April 1, 2011; and

WHEREAS, Section C, Item 3 of the ECSP Agreement provided that a Floodway/Floodplain Agreement would be created to preserve the existing Arroyo Las Positas floodplain through the City's Las Positas Golf Course and associated parcels; and

WHEREAS, Section D: Item 3 of the ECSP Agreement provided that a Maintenance Mitigation Area Agreement would be for the City of Livermore to maintain the mitigation area for a period of five years after its acceptance by the state and federal regulatory agencies.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District hereby authorizes the General Manager to negotiate and execute the Floodway/Floodplain and Maintenance Mitigation Area Agreements between Zone 7 and the City of Livermore to fulfill said provisions of the ECSP Agreement.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on October 15, 2014.

By: ___________________________________
President, Board of Directors

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO.

INTRODUCED BY
SECONDED BY

Covenant and Deed Restriction for Mitigation Area

WHEREAS, Alameda County Flood Control and Water Conservation District, Zone 7 is the owner of the real property known as the Arroyo Las Positas in Livermore; and

WHEREAS, Zone 7 and the City of Livermore (City) entered into Agreement No. A11-83-LIV: *Agreement Between City of Livermore and Zone 7 of Alameda County Flood Control and Water Conservation District for the El Charro Specific Plan Area Flood Protection Improvements* (ECSP Agreement) on April 1, 2011 for improvements to the Arroyo Las Positas; and

WHEREAS, as part of the ECSP Agreement the City was required to construct a mitigation/ restoration area along the Arroyo Las Positas and have a Deed Restriction recorded preventing conversion of the area to other uses; and

WHEREAS, a Covenant and Deed Restriction has been prepared preventing conversion of the area described and shown in Exhibit B (No. 70187) to other uses.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District hereby finds and determines that the Covenant and Deed Restriction will not substantially conflict nor interfere with the use of said property by Zone 7 for flood control purposes and Covenant and Deed Restriction is in the public interest; and

BE IT FURTHER RESOLVED, that the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District does hereby authorizes the General Manager to negotiate and finalize the Covenant and Deed Restriction with the Regional Water Quality Control Board; and

BE IT FURTHER RESOLVED, that the Board of Directors hereby requests and recommends that the Board of Supervisors of the Alameda County Flood Control and Water Conservation District approve the Covenant and Deed Restriction, and does authorize the President of the Board of Supervisors to execute same.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN

I certify that the foregoing is a correct copy of a Resolution adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District on October 15, 2014.

By: ____________________________________
President, Board of Directors

Line H
No. 70187
Map: RF 10137

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: GROUNDWATER SECTION
CONTACT: MATT KATEN

AGENDA DATE: October 15, 2014 ITEM NO. **14**

SUBJECT: Proposed Well Ordinance

SUMMARY:
- Zone 7 has actively managed a well permitting program under the terms of County Ordinance 73-68 (now Chapter 6.88 of the General County Ordinance Code) since 1973.
- After comparing the Alameda County Ordinance with the State's Model Well Standards Ordinance and several other county and water district well ordinances, staff feels that the Alameda County ordinance is too general and does not provide adequate protection for the groundwater basins within Zone 7's jurisdiction.
- Staff has prepared a draft Zone 7-specific well ordinance (Ordinance) to supersede the County's Ordinance within Zone 7's service area and to enhance groundwater protection in Eastern Alameda County.
- The proposed Ordinance provides details on when a permit is required and what well construction standards apply, and what steps the Agency will take to enforce provisions.
- The Ordinance fully conforms to the State's Model Well Standards Ordinance.
- The draft Ordinance provides for the Zone 7 Board to set and maintain its own well permit fee schedule so staff developed a proposed fee schedule with input from the Zone 7 Water Resources Committee.
- Adopting the well ordinance before the end of the calendar year strengthens the Agency's position for maintaining local control over the groundwater basin under new state legislation.
- The Ordinance has been reviewed by the Tri-Valley cities and water retailers, Director Figuers and the Water Resources Committee.
- AB 1125 provides Zone 7 the authority to adopt this well ordinance for the unincorporated areas of its service area. The Cities within Zone 7's jurisdiction will have to adopt the ordinance or otherwise delegate the authority to Zone 7 to administer the ordinance within their respective jurisdictions.

FUNDING:
Since the well permitting program is funded from Fund 100-Water Enterprise, revenue from the Well Permit fees will be deposited into Fund 100-Water Enterprise.

RECOMMENDED ACTIONS:
Discuss and provide direction.

ATTACHMENTS:
- Internal Memo providing additional background and discussion
- Draft Well Ordinance (Redlined based on Water Resources Committee input)

Interoffice Memo

Date: October 15, 2014
To: Jill Duerig, General Manager
From: Matt Katen, Principal Geologist, Groundwater Section
Subject: Proposed Well Ordinance

The following provides additional background and discussion of the above-referenced agenda item.

BACKGROUND:

In 1967, the State enacted legislation requiring Cities and Counties to adopt ordinances to govern well standards particularly in critical areas of high populations and large groundwater basins. Alameda County adopted a well ordinance (Ordinance 73-68) in July 1973 and later incorporated it into its General County Ordinance Code (Chapter 6.88 (Water Wells)).

In June 1973, by resolution, the City of Livermore authorized Alameda County Flood Control and Water Conservation District (ACFCWCD) to administer and enforce the County Ordinance within the city (Resolution 76-73). Likewise, the City of Pleasanton granted ACFCWCD jurisdiction within the city to administer and enforce the County ordinance in February 1974 (Ordinance No. 720). The City of Dublin adopted the County's ordinance by reference and designated Zone 7 as the administering agency in February 1988 (Ordinance 3-88).

In 1989, pursuant to California Water Code Section 13801, the State Water Resources Control Board (Water Board) developed and adopted a Model Well Ordinance for counties, cities and water districts having permit authority over well drilling to use as a minimum standard template or to adopt as their own. Those that had an existing ordinance that substantially conformed with the model ordinance could continue to use their existing ordinance.

DISCUSSION:

Zone 7 has actively managed a well permitting program under the general terms of the County's Well Ordinance since 1973. Over the last several years, staff has been working on developing a draft Zone 7 well ordinance to enhance groundwater protection in Eastern Alameda County. The objectives of this effort include the following:

- Adopt a local well ordinance that fully conforms to the State's Model Well Standards Ordinance. Staff believes the County's Ordinance is too general and its provisions could be strengthened by closer adherence to the Model Well Ordinance;
- Provide details on when a permit is required, what well construction standards apply, and what steps the Agency will take to enforce the ordinance's provisions;
- Increase the protection of the valley's groundwater supplies by adopting certain well construction and destruction requirements specific to known local hydrogeologic and environmental conditions;
- Provide authority to the Zone 7 Board to set and maintain its own well and soil boring permit fees independent of the County's permit fee schedule; and

- Strengthen the Agency's position for maintaining local control over the groundwater basin under new state legislation (SB 1319, SB 1168 and AB 1739) by adopting a new well ordinance before the end of this calendar year.

To develop the Zone 7 well ordinance (Ordinance), Staff reviewed current well ordinances from three neighboring counties (San Mateo, Santa Cruz and San Joaquin), and three Bay Area water districts (Alameda County Water District, Santa Clara Valley Water District, and Scotts Valley Water District), and selectively borrowed ordinance provision language from each. Staff then made sure that the draft ordinance fully adheres to the State's Model Well Standards Ordinance and California Water Code. The review process also included routing drafts to the local cities (Livermore, Pleasanton, and Dublin), DSRSD and California Water Service Company, and to Directors Stevens and Figuers for comments and edits. An administrative draft of the Well Ordinance was then transmitted to these stakeholders and lastly reviewed with the Water Resources Committee on October 6, 2014.

For the Draft Ordinance, staff defined the areas where a permit is needed for soil borings of 10 feet or greater to coincide with the boundaries of DWR's three defined local groundwater basins (Livermore Valley Groundwater Basin, Sunol Valley Groundwater Basin and Tracy Groundwater Basin) within Zone 7's service area as depicted in Department of Water Resources (DWR) Bulletin 118-1. Also during the process, staff updated the areas where special well construction requirements are necessary to prevent vertical spreading of contamination. The proposed Ordinance was discussed at length during the October 6, 2014 Water Resources Committee meeting. The committee requested that a few minor edits be made to the Draft Ordinance, but concurred with staff's recommendation to bring the draft ordinance to the Board at the October 15, 2014 meeting.

In addition, staff analyzed actual and projected permit activity within Zone 7's service area and estimated the ongoing cost of administering the permitting and Toxic Site surveillance programs, including labor and overhead. From this, staff estimated annual program cost (Attachment 1). Utilizing the estimated program cost, the fee schedules from several other agencies' well permitting programs, and input provided by the Water Resources Committee at the October 6 committee meeting, staff developed the proposed Zone 7 fee schedule (Attachment 2). The proposed fee schedule, if implemented, is anticipated to recover the majority of labor costs for permitting and Zone 7's Toxic Site surveillance program activities and administrative costs. Attachment 3 provides a comparison of the proposed fee schedule with other agencies' fee schedules. The Ordinance provides for Zone 7 to periodically revise both the special requirement areas and the permit fee schedule.

Zone 7's authority to create its own well ordinance comes from Act 20 of the California Uncodified Water Code ("District Act"). Section 36(4) of Act 20 provides the Zone 7 Board authority and autonomy to govern matters solely affecting Zone 7 independent of the Alameda County Board of Supervisors who govern the other nine zones of the ACFCWCD. The Cities within Zone 7's jurisdiction will have to adopt the ordinance or otherwise give Zone 7 the authority to administer the ordinance within their respective jurisdictions, as they did before.

Passage of the ordinance requires at least two meetings of the Board of Directors held at least five days apart; one for its introduction and a second for its adoption. One full reading of the ordinance is required at either of the two meetings except when, after reading the title, further reading of the ordinance is waived by regular motion adopted by majority vote. An ordinance summary or a one-quarter page display advertisement of the ordinance must be published in a newspaper of general circulation in the county at least five days prior to the meeting at which the ordinance is to be adopted and once within 15 days after adoption of the ordinance. By default, the ordinance will become effective 30 days from the date of its adoption. Staff recommends introduction of the Ordinance at the October 15, 2014 Board meeting and adoption at the November 19, 2014 Board Meeting, following the noticing process. Staff also recommends adoption of a permit fee schedule, such as the one attached, at the November 19, 2014 Board Meeting by passage of a Board resolution.

Attachment 1: Estimated Zone 7 Program Cost vs Projected Fee Revenue
Attachment 2: Proposed Zone 7 Fee Schedule
Attachment 3: Proposed Zone 7 Fee Schedule Comparison with other Agencies' Fee Schedules
Attachment 4: Support letter from Dublin San Ramon Services District

Attachment 1

Estimated Zone 7 Program Cost vs Projected Permit Fee Revenue

Fiscal Year	Total No. of Permits Issued	Estimated Zone 7 Cost	Projected Fee Revenue
FY 2010-11	131	$114,941	$110,935
FY 2011-12	143	$120,557	$110,740
FY 2012-13	159	$130,104	$129,915
FY 2013-14	177	$141,710	$139,930
Total	**610**	**$507,312**	**$491,520**
Annual Average	**153**	**$126,828**	**$122,880**

Attachment 2

Proposed Well Permit Fee Schedule for Zone 7 Water Agency

PERMIT TYPE	PROPOSED PERMIT FEES
Supply Well Construction	**$700**
Supply Well Repair/Reconstruction	**$600**
Supply Well Destructions	**$700**
Monitoring Well Constructions	**$600** ($300 for each add'l well)
Monitoring Well Destructions	**$600** ($200 for each add'l well)
Cathodic Protection Wells	**$600** ($300 for each add'l well)
Geothermal Heat Exchange Wells	**$600** ($300 for each add'l well)
Soil Borings - Geotechnical Investigation:	**$360 for up to first 6 borings** ($50 for each add'l boring)
Soil Borings - Contamination Investigation:	**$550 for up to first 6 borings** ($75 for each add'l boring)

Attachment 3

Proposed Zone 7 Fee Scuedule Comparison with Other Agency Fee Schedules

Fee Schedule Year		2014	2013	2013	2013	2013	2013	2013	2013	2013	2013	
PERMIT TYPE	**Proposed Zone 7 Fee Schedule**	**ACWD**	**Alameda Co Public Works**	**Contra Costa County**	**Marin County**	**Monterey County**	**Sacramento County**	**San Francisco City & County**	**San Mateo County**	**SCVWD**	**Solano County**	**Average Fees**
Supply Well Construction	**$700**	$605	$397	$584	$1,124 ($319 for each add. well)	$1,213*	$852	$708 **	$1,262	$400	$613 ($475 for each each add. well)	**$776**
Supply Well Repair/Reconstruction	**$600**	$430	$397	$584	$1,019	$1,213	$320	$708 **	$0	$170	$258	**$510**
Supply Well Destruction	**$700**	$605	$397	$360	$956	$542*	$746	$708 **	$639	$330	$475 ($160 for each add. well >2)	**$576**
Monitoring Well Constructions	**$600 ($300 for each add'l well)**	$605	$397	$584	$560 ($266 for each each add. well)	$407	$746	$708 **	$577 (Per Parcel)	$400	$475 ($160 for each add. well >2)	**$546**
Monitoring Well Destructions	**$600 ($200 for each add'l well)**	$605	$397	$360	$440 ($213 for each each add. well)	$407	$426	$708 **	$577 (Per Parcel)	$330	$475 ($160 for each add. well >2)	**$473**
Cathodic Protection Wells	**$600 ($300 for each add'l well)**	$605	$397	$584	$547	$1,213	$426	$708 **	$1,225	$400	$475 ($160 for each add. well >2)	**$658**
Soil Boring - Geotechnical Investigation:	**$360 up to 6 borings, ($50 for each each add'l boring >6)**	$430 ($70 for each add. boring >4)	$265 (Per Site)	$537 (Per Parcel)	$440 ($106 for each add. boring)	$542 ($72 for each add. boring)	$426 (Per Parcel)	$708 **	$361 (Per Parcel) $721 for Annual Permit	$300 (Per Site)	$258 (for up to 5 borings)	**$427**
Soil Boring - Contamination Investigation:	**$550 up to 6 borings, ($75 for each each add'l boring >6)**	$430 ($70 for each add. boring >4)	$265 (Per Site)	$537 (Per Parcel)	$440 ($106 for each add. boring)	$136 (Per Site)	$426 (Per Parcel)	$708 **	$577 (Per Parcel)	$300 (Per Site)	$258 (for up to 5 borings)	**$408**

** All SF City and County permits are $326 but do not incl inspection fees. $708 includes 2 hr inspection @ $191/hr

Dublin San Ramon Services District
Water, wastewater, recycled water

7051 Dublin Boulevard
Dublin, CA 94568-3018

phone (925) 828-0515
fax (925) 829-1180
www.dsrsd.com

October 6, 2014

Ms. Jill Duerig
General Manager
Zone 7 Water Agency
100 North Canyons Parkway
Livermore, CA 94551

RE: Proposed Well Ordinance

Dear Jill:

Thank you for providing us the opportunity to review Zone 7's draft proposed well ordinance. Dublin San Ramon Services District (District) had concerns related to backflow prevention requirements and we appreciate meeting with your staff to discuss our comments. The District's concerns were satisfactorily addressed.

The District supports this ordinance and looks forward to collaborating with your staff to implement it. Thank you for working with us on the proposed well ordinance.

Sincerely,

Rhodora Biagtan

RHODORA N. BIAGTAN
Interim Engineering Services Manager

cc: Bert Michalczyk
Steven Delight

ORDINANCE NO. 2014-__

WELL ORDINANCE

The Board of Directors of Zone 7 of the Alameda County Flood Control & Water Conservation District hereby ordains as follows:

Ordinance 2014-_____ regulating the classification, construction and destruction of wells and other soil borings; requiring the destruction of abandoned or unused wells; establishing a well permit process; and adopting well construction and destruction standards is hereby adopted.

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage, and before the expiration of fifteen (15) days after its passage, shall be published once with the names of the members voting for and against the same in a newspaper of general circulation, printed, published and circulated in the District.

Introduced at a regular meeting of the Board of Directors held on the ____ day of ____, 2014 and passed and adopted by the Board of Directors of Zone 7 of the Alameda County Flood Control and Water Conservation District, State of California on the ___ day of ____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

____

President of the Board of Directors
of Zone 7 of the Alameda County Flood Control and
Water Conservation District, State of California

____

Judy Rector, Secretary of the Board of Directors

ZONE 7 WATER AGENCY WELL ORDINANCE 2014-__

An ordinance of Zone 7 Water Agency regulating the classification, construction and destruction of wells and other soil borings; requiring the destruction of abandoned or unused wells; establishing a well permit process, adopting well construction and destruction standards.

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SECTION 1 - PURPOSE

As applied to wells located within Zone 7 of the Alameda County Flood Control and Water Conservation District ("Zone 7 Water Agency" or the "Agency"), it is the purpose of this ordinance to establish standards, rules and regulations concerning the classification of existing wells, the construction of new wells, the repair, reconstruction or deepening of existing wells, and the abandonment or destruction of wells, including water wells, monitoring wells, cathodic protection wells, and exploratory boreholes. It is the intent of this Ordinance to prevent wells and excavations from causing pollution or contamination of groundwater, or otherwise jeopardizing the health, safety, or welfare of the public~~people of the Agency~~.

SECTION 2 - DEFINITIONS

Except as otherwise required by the context of this ordinance, the terms used in this ordinance shall have the same meaning as in Chapter 10 of Division 7 of the California Water Code (Sections 13710, et seq.) and the Department of Water Resources Bulletin 74-81 and subsequent supplements or revisions. Words used in the present tense include the future as well as the present. ~~Words used in the masculine gender include the feminine and neuter.~~ The singular number includes the plural, and the plural the singular. Section headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any section.

"Abandoned Well" is any well defined by one or more of the following:

a) A well, other than a monitoring well, which has been out of service continuously for 12 months or more, and does not meet the definition of an "inactive well" or "standby well."~~.~~

b) A monitoring well from which no measurement or sample has been taken for a period of 12 months unless owner demonstrates intention of future use and maintains the well as "inactive well."
c) A well which is in such a state of disrepair that it cannot be made operational for its intended purpose.
d) A test hole or exploratory boring 24 hours after construction and testing work has been completed.
e) A cathodic protection well that is no longer functional for cathodic protection purpose(s).
f) Any boring that cannot be satisfactorily completed as a well.

"Active Well" means a well that has been utilized at least once in the preceding 12 months for the extraction, sampling or monitoring of groundwater or soil vapor.

"Agency" shall mean Zone 7 Water Agency.

"Agricultural Well" or "stock well" means any well used solely to supply water for irrigation or other agricultural purposes.

"Annular seal" is the seal between the conductor casing or borehole and the well casing.

"Aquifer" or "Water-bearing zone" means a body of strata that is sufficiently permeable to conduct groundwater and to yield significant quantities of water to wells and springs.

"Board" shall mean the Board of Directors of Zone7 Water Agency.

"Boring" or "Soil boring" or "Exploratory borehole" or "Test hole" means any uncased excavation or boring greater than ten (10) feet in depth, used to determine engineering, geological, geophysical, ~~or~~ geochemical or contamination properties of subsurface materials. The District does not intend for pits, potholes, trenches, excavations for foundation and basements, root-zone piezometers, or similar excavations to be included in this definition.

"Cathodic Protection Well" means any artificial excavation in excess of ten (10) feet deep constructed by any means for the purpose of installing anodes or electrical equipment for the protection of metallic facilities in the ground from corrosion.

"Construction, reconstruction, deepen" means to dig, drive, bore, drill, or deepen a well, or to reperforate, remove, replace, or extend a well casing.

"Contamination" means an impairment of the quality of the waters or soil to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any contaminants in excess of background levels and/or the applicable standard currently promulgated by the State of California for drinking water and/or which is the subject of a cleanup order issued by the Regional Water Quality Control Board, San Francisco Bay Region.

"Contamination hazard" means a condition created by wells or deep excavations that will or may foreseeably cause contamination to spread to uncontaminated waters.

“Contractor” or “Well contractor” means any person or company possessing a C-57 Water Well Contractor's License in accordance with the provisions of the California Business and Professions Code, Section 7000, *et. seq*., and Water Code Section 13750.5.

“County” means the County of Alameda.

“Destruction of well” or “Abandonment of well” means the proper filling, sealing, or otherwise rendering unusable a well that is no longer serving it’s intended purpose or has become hazardous to public health or safety, so as to assure that the groundwater is protected and to eliminate a potential physical hazard.

“Domestic water supply well” is any water well used to supply potable water for domestic needs (e.g., drinking, cooking, washing, bathing, etc.) of an individual residence or business or a private system of four or less service connections.

“District” shall mean the Zone 7 Water Agency.

“General Manager” shall mean the General Manager of the Agency or his/her designee.

“Geothermal heat exchange wells” are wells constructed to return to the ground, in a closed-loop system, water which has been used as a heat exchange fluid in air conditioning or heating processes. Geothermal heat exchange wells include Ground-source heat-pump wells. Such wells or boreholes are not intended to produce water or steam.

“Inactive well” or “Standby well” means a well that has not been used for a period of 12 months or more but has been properly secured, protected, and maintained in an inactive condition in accordance with this ordinance’s requirements, for a period not to exceed five years.

“Injection well” or “Recharge well” is any well constructed to introduce water into the underground as a means of replenishing ground water basins.

"Inspecting Officer" shall mean a person designated by the General Manager and authorized to ensure that the provisions of this Ordinance are enforced.

“Irrigation supply well” is any water well used to supply water for irrigation, livestock operation or other agricultural purposes not including any uses of domestic water.

“Modify” or “Repair” means the deepening or enlargement of a well or the perforation or replacement of a casing or sealing-off of aquifers, or other work to alter, improve or maintain the integrity of the well and its water-producing capacity.

“Monitoring well” means a well constructed exclusively for observing groundwater levels and flow conditions, obtaining samples for determining groundwater quality, or for evaluating hydraulic properties of water-bearing strata. Monitoring wells are sometimes referred to as observation wells and/or piezometers. “Monitoring well” also means any “water well” that is used for monitoring purposes.

“Owner” means the owner of the land on which the well is located.

"Person" means any person, association, firm, corporation, municipality, public agency or special district.

"Permit" or "Well Permit" means a permit issued by the Agency pursuant to this Well Ordinance.

"Public nuisance" means any well which threatens to impair the existing water quality of groundwater or otherwise jeopardize the health or safety of the public.

"Repair" means the deepening or enlargement of a well or the perforation or replacement of a casing or sealing-off of aquifers, or other work to improve or maintain the integrity of the well and its water producing capacity.

"Water quality" is a term used to describe the chemical, physical, and biological characteristics of water with respect to its suitability for a particular purpose. The same water may be of good quality for one purpose or use, and bad or poor for another, depending upon its characteristics and the requirements for the particular use.

"Well" or "water well" or "dewatering well" means any cased or uncased boring for the purpose of extracting, injecting or monitoring groundwater. This definition shall include agricultural wells, test wells, monitoring wells, piezometers~~, and~~ observation wells, and wells used for the purpose of dewatering excavations or basements that will not be removed as part of a planned excavation. This definition shall not include: (a) oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or (b) wells used for the purpose of dewatering excavations during construction or stabilizing hillsides or embankments that will be removed as part of the planned excavation.

"Wellhead Protection" is a program where specific well siting, well design and well construction standards, and possibly land use restrictions, are implemented to effectively reduce the risk for existing or potential future surface contamination from degrading groundwater quality.

"Well Standards," refers to the California Department of Water Resource's Bulletins 74-81 and 74-90, any supplements or amendments thereto, as well as any regulations adopted by the Agency in support of this Ordinance.

"Well Ordinance" or "this ordinance" means Ordinance 2014-__, of the Agency

SECTION 3 – JURISDICTION

3.1 Applicable Area

This Ordinance shall apply to all territory lying within the jurisdictional limits of Zone 7 Water Agency, except for those portions where wellhead protection authority has been assigned to another agency through a "Services Agreement" between the agencies. Areas lying within the incorporated cities of Livermore, Pleasanton and Dublin shall be included if each respective municipality has adopted the provisions of this Ordinance by reference thereto in a City ordinance or resolution, and have designated Zone 7 Water Agency as the administering agency.

3.2 Special Requirement Areas

The Agency may designate areas where special well construction techniques and/or well seal(s) are required to prevent spreading of contaminants or mixing of water between water-bearing zones. These areas are typically areas where one or more underlying aquifers of differing water quality are separated from each other by a zone of low permeability. Where an applicant proposes well construction, reconstruction, or destruction work in such an area, the Agency may require the applicant to provide a report prepared by a registered Professional Geologist or registered Professional Civil Engineer (California Business and Professions Code Sections 7850 and 6762 respectively) that identifies the affected water-bearing and non-water bearing strata, as well as the zone(s) of contamination or poor quality water, and recommends construction techniques and seal location(s) designed to prevent the spread of the contamination or poor quality water by the well or during well construction.

SECTION 4 - PROHIBITIONS

4.1 Invalid or No Permit

No Person within the jurisdictional limits of the Agency shall construct, modify, repair, reconstruct, deepen, abandon or destroy any well, or dig, drill or drive any soil boring that may intersect groundwater without possession of a valid permit issued by the Agency unless exempted by law or as provided for in this Ordinance. A valid permit is also required before digging, drilling, driving or sealing any soil boring greater than ten (10) feet in depth within the Agency's jurisdictional limits of the Livermore Valley, Sunol Valley and San Joaquin Valley (Tracy Subbasin) groundwater basins as defined in the most current version of the California Department of Water Resources (DWR) Bulletin 118. .

4.2 Unsecured Well Openings

No Person shall knowingly permit the existence on premises in his or her ownership or possession and control of any well opening or entrance which is not sealed or secured in such a way as to prevent the introduction of contaminants to underground water supplies through open wells.

4.3 Contaminated Water Production

No well intended to produce or monitor fresh groundwater shall be perforated in multiple water-bearing units if contamination, pollution or poor quality water could enter the well from one unit and move to other units penetrated by the well and degrade groundwater quality, unless otherwise approved by the Agency.

4.4 Abandoned Wells

No Person within the limits of the Agency shall knowingly permit the existence of any abandoned well on premises in his or her ownership or possession and control.

4.5 Wasting Groundwater

No Person shall engage in the indiscriminate pumping and discharge of groundwater in a wasteful manner without reasonable purpose.

SECTION 5 - PERMITS

5.1 Permit Requirement

Every person within the jurisdictional limits of the Agency proposing to dig, drill, bore, drive, advance by direct push, construct, reconstruct~~pair~~, deepen or destroy any well, or any soil boring that may intersect groundwater, shall, before commencing the work, apply for and receive a permit as provided in this ordinance to do the work, unless exempted herein, or by law, or by waiver issued by the Agency. A valid permit is also required before digging, drilling, boring, driving or sealing any soil boring that is greater than 10 feet in depth within the Agency's jurisdictional limits of the Livermore Valley, Sunol Valley and San Joaquin Valley (Tracy Subbasin) groundwater basins as defined in the most current version of the California Department of Water Resources (DWR) Bulletin 118. No property owner shall be unreasonably denied the right to install a well or soil boring on his/her property. No permit is necessary to replace or repair well equipment if the well casing is not being modified, the depth is not being changed, or the effectiveness of the annular seal is not being compromised.

5.2 Emergency Work

Emergency work required on short notice to maintain drinking water or agricultural supply systems may proceed without a permit. However, in such cases, the person responsible for the emergency work shall:

a) Apply for a permit within three (3) working days after commencement of 'emergency work,' and pay the normal applicable permit fee(s);
b) Satisfy the Agency that such work was urgently necessary; and
c) Demonstrate that all work performed was done in conformance with the technical standards established pursuant to Section 6 (Standards) of this Ordinance.

Emergency repairs include the construction of a new well, or the repair, deepening or sealing of an existing well. In all such cases, the owner or contractor must file a written statement that this was an emergency repair and the reason for the repair within three (3) days after such repairs are begun, excluding weekends and holidays. The statement shall be accompanied with payment of the normal applicable permit fee(s). The final determination as to whether to issue such permit under the stated emergency conditions, will be made by the Agency. In making the determination, the District will consider such factors and circumstances as: the timing and nature of the emergency, the threats or risks associated with delaying the work to procure a permit, and supporting documents.

5.3 Permit Application

Permits required by this Ordinance shall be subject to general conditions set forth in this Ordinance, as well as any additional site-specific conditions identified by the Agency pursuant to Section 3.2. The Agency shall prescribe and provide a standard form of application for permits under the terms of this Ordinance. The application form shall contain space for the name and address of the applicant; together with such information that in the judgment of the Agency is necessary to establish the location of the well, the purpose of the permit, and the extent of any proposed work. When required by the Agency, drawings and specifications for any proposed work shall accompany the application form and shall be detailed enough to demonstrate compliance with the standards.

Within fourteen (14) calendar days after receipt of a completed Application for a Well Permit, the Agency shall either grant, conditionally grant, or deny the Well Permit. A Well Permit shall not be issued if, in the judgment of the Agency, the Well may jeopardize the health, safety, or welfare of the people of the District.

There shall be compliance, at the Applicant's expense, with the California Environmental Quality Act if, in the Agency's opinion, there may be significant effect(s) on the environment or the resources of the District.

5.4 Contractor's License Requirement

All construction, reconstruction, or destruction work on wells shall be performed by a person who possesses an active C-57 Water Well Drilling Contractor's License in accordance with the provisions of the California Business and Professions Code, Section 7000, *et. seq*., and Water Code Section 13750.5.

5.5 Fees

The Agency may require fees to cover Agency costs for the review of applications, issuance of permits, Board hearings of appeals, review of material submitted and inspection of work under this Ordinance. Such fees shall be adopted and updated from time to time by Zone 7 Board resolution. At the recommendation of the General Manager and approval by the Board, all or any part of the fees and costs of compliance with this Ordinance may be waived by the Agency in accordance with such guidelines and procedures as may be established by the Board.

5.6 Location of Permit

It shall be the responsibility of the permittee to maintain a copy of the permit on the drilling site during all stages of construction or destruction.

5.7 Limitations

When the Agency issues a permit pursuant to this Ordinance, it may condition the permit in any manner necessary to carry out the purposes of this Ordinance. The Agency reserves the right to impose other conditions that, in its sole discretion, are necessary to adequately protect and manage the groundwater basin. Conditions may include, but are not limited to, construction requirements and such quantity and quality testing methods as the Agency finds necessary.

5.8 Abandoned Wells

As a condition of a construction or reconstruction permit, any abandoned wells on the property shall be destroyed in accordance with standards provided in this ordinance.

5.9 Proper Disposal of Drilling Fluids

Drilling fluids and other drilling materials used in or generated by the permitted work shall be handled safely, and their disposal shall be in accordance with the law.

5.10 Term of Permit and Completion of Work

Work authorized by a permit issued pursuant to this Ordinance shall be completed by the date set out in the permit. The work shall begin within ninety (90) calendar days from the date of issuance of the permit unless a different starting date is stated in the permit. If the work is not so begun, the permit shall become void. If at any time the General Manager determines that any delay in the prosecution or completion of the work authorized is due to lack of reasonable diligence on the part of the permittee, the General Manager may, following due notice to the permittee and an opportunity to be heard, revoke the permit. The General Manager may, upon good cause being shown, extend the permit for an additional maximum period of six (6) months.

5.11 Expired Permits

Upon expiration of any well permit issued pursuant to this Well Ordinance, no further work may be done in connection with the construction, repair, reconstruction, or abandonment of a well until such permit has been renewed or a new well permit for such purpose is secured in accordance with the provisions of this Well Ordinance.

5.12 Suspended or Revoked Permits

The Agency may suspend or revoke any permit issued pursuant to this Ordinance, whenever it finds that the permittee or his/her agent has violated any of the provisions of this Ordinance, or has misrepresented any material fact in his/her application or other supporting documents for such permit. Upon suspension or revocation of any well permit issued pursuant to this Well Ordinance, no further work may be done in connection with the construction, repair, reconstruction, or abandonment of a well unless and until such permit has been reinstated or a new well permit is secured. Prior to ordering any permanent revocation, the Agency shall give the permittee an opportunity for a hearing thereon, after reasonable notice. The hearing shall be before the General Manager or his/her designated representative. An appeal may be made as set forth below.

5.13 Ordered Additional Work

Upon suspending or revoking any permit, the Agency may order the permittee to conduct any work reasonably necessary to protect the underground waters from pollution or contamination, if any work already done by the permittee has left a well in such a condition as to constitute a hazard to the quality of the underground waters. No permittee or person who has held any permit issued pursuant to this Ordinance shall fail to comply with any such order.

5.14 Wells Installed Without Permit

5.14.1 Cease and Desist Orders: Upon determining that a well has been installed, or a boring advanced without the required permit or permits, the General Manager may issue a cease and desist order by certified mail to the owner of the property where the well or boring is located, requiring the owner to immediately cease use of the well or boring. The owner or his/her agent must then obtain such permits as are necessary to destroy the well or boring, or legalize its use.

5.14.2 Penalty Fee: Except as provided in Section 5.2 (Emergency Work), any person who shall commence any work for which a permit is required by this Ordinance without having obtained a permit, shall be required, if subsequently granted a permit for this work, to pay double the standard permit fee.

5.14.3 Abatement Actions: Any person who shall commence any work for which a Well Permit is required by this Well Ordinance without having obtained a Well Permit, shall be required, if subsequently NOT granted a Well Permit for this work, to either destroy the unpermitted well or to reimburse the Agency for any costs to abate a nuisance created by the unpermitted well.

5.15 Guarantee of Performance

The Agency may require the applicant to post a cash deposit or bond guaranteeing compliance with the terms of this Ordinance, in an amount determined by the Agency, if the General Manager deems it necessary to protect the Agency and public against faulty or uncompleted work. The amount shall not exceed the total estimated cost of the work. The deposit or bond will be returned or released when the work has been completed to the satisfaction of the Agency.

5.16 Liability

Permittee shall assume all responsibility and liability for, and defend, indemnify and hold harmless the Agency, its Directors, officers, agents and employees from all claims, demands, suits, losses, damages, injury, and liability, direct or indirect (including any and all costs, fees and expenses in connection therewith), caused by acts or omissions of Permittee, its employees, contractors and agents in connection with any work or activity of the Permittee or the failure of the Permitee to perform Permit obligations. Permittee shall at its own cost, expense and risk defend any and all actions, suits, or other legal proceedings brought or instituted against Agency, its directors, officers, agents and employees in connection with or arising from acts or omissions of Permittee, its employees, contractors and agents during work done pursuant to a permit issued by Agency, and to pay and satisfy any resulting judgments, settlements or other expenses associated therewith.

5.17 Waivers and Variances

The Agency shall have the power under the following specified conditions to grant a waiver or variance from any provision of the standards and to prescribe alternative requirements in their place:

5.17.1 Special Circumstances: There must be, in a specific case, a special circumstance where practical difficulties or unnecessary hardship would result from the strict interpretation and enforcement of any standard.

5.17.2 Intent of Ordinance Not Compromised: The granting of such a waiver or variance shall be consistent with the purposes of this Ordinance.

5.18 Inspections

The well site, location, material and methods used may be inspected by the Agency's Inspecting Officer at any time prior to or during or following construction or destruction of any well. The purposes of these inspections are to:

a) Determine whether there are any site conditions that warrant further consideration before issuing a permit;
b) Verify that proper depths, materials and methods are being used for seal placement;
c) Determine whether the well was completed in accordance with this ordinance.

5.18.1 Required Notice: The Inspecting Officer shall be informed a minimum of ~~three~~ five (5~~3~~) working days before commencing any field work~~,~~. ~~and~~ A confirmation shall also be given to the Inspecting Officer a minimum of twenty-four (24) hours prior to ~~sealing the annular space, or the wellbore in the case of a well destruction~~the operation that is to be inspected, along with the anticipated time for the operation to commence. Drillers who anticipate completing a well construction or destruction in less than one day shall also give the 5~~3~~-day and 24-hour notifications to the Inspecting Officer. ~~along with the anticipated time for sealing operation to commence.~~

5.18.2 Waived Inspections: If the Inspecting Officer wishes to allow a seal to be placed or a well destroyed without him or her being present, the driller shall seal the well in accordance with the standards of this Well Ordinance and any permit conditions. A request for a waiver of inspection can be granted if the permittee has arranged for a Professional Geologist or Professional Civil Engineer to provide the inspection and submit a signed and stamped letter attesting to the quality of the work. No seal shall be placed or a well destroyed until the Inspecting Officer gives permission to proceed.

5.19 Completion Report

A copy of the "Report of Completion" (Water Well Driller's Report, Department of Water Resources Form 188) required by California Water Code Section 13751, shall be submitted by the permittee to the Agency within thirty (30) calendar days of construction, alteration, or destruction of any well. This report shall document that the work was completed in accordance with the Well Standards and all additional permit conditions. Any additional information or data required as a permit condition shall be submitted at the same time. This information will become public information to the extent permitted by law.

5.20 Requirements of Other Agencies

Nothing in this Ordinance shall be deemed to excuse any person from compliance with the provisions of California Water Code Sections 13750 through 13755 relating to notices and reports of completion or any other federal, state, or local reporting regulations.

SECTION 6 - STANDARDS

All water wells, monitoring wells, geothermal heat exchange wells, and cathodic protection wells shall be constructed, reconstructed, repaired, destroyed, inactivated or converted in accordance with the standards set by this Ordinance and any associated guidelines or regulations, and by state law, and by the latest revisions and supplements of Department of Water Resources Bulletins 74-81 and 74-90.

In addition, the following local standards apply:

6.1 Annular Seals

All wells shall have a grout seal in the annular space. In no case will an outer casing or conductor casing be an acceptable substitute for a seal.

6.2 Exclusion of Contamination

All water wells shall be designed and constructed to exclude contamination as follows:

6.2.1 Sealed Wellhead: All well openings and entrances, including wellheads, top of casing, sounding ports and tubes, and gravel fill ports and tubes shall be secured and maintained with water tight seals or caps in such a way as to prevent the introduction of surface contaminants to underground water supplies through these well openings.

6.2.2 Sealing-off Strata: In areas where a well penetrates more than one aquifer, and one or more of the aquifers contains or is suspected to contain poor-quality water, pollutants or contaminants that could move through the borehole during well construction or operation and could significantly degrade water quality in the other aquifer(s), the aquifer(s) producing such poor-quality water shall be sealed off or 'isolated' to prevent entrance of the poor-quality water into the well or its migration to other aquifer(s).

It is recognized that in some instances production or monitoring may be desired from areas, aquifers, and/or depths which contain poor quality water. It is not the intent of these standards to preclude such situations so long as the integrity of the fresh water supplies is maintained. Final judgment on well constructions that would cause intermingling of waters of different qualities shall be at the discretion of the Agency. The depths and specifications of the unperforated casing(s) and seal(s) needed to prevent the entrance of poor-quality water or its migration into other aquifers must be approved by the Agency.

6.2.3 Backflow Prevention: All supply wells not discharging to the atmosphere shall be equipped with an automatic backflow prevention device approved by the Agency to protect the well from return flow contamination. Agricultural well irrigation systems, including those used for golf courses which employ chemical feeders or injection systems shall also be equipped with a backflow prevention device approved by the Agency. In the event a well is used on a property served by a public water system, there shall be installed between the dwelling unit or structure being served water and the meter box or distribution system a backflow prevention device approved by of the agency having jurisdiction over the public water system.

6.3 Backfilling Boreholes

Backfilling work on exploratory borings, as defined herein, shall be subject to requirements equivalent to those for the destruction of abandoned monitoring wells.

6.4 Sampling Access

All water wells shall be maintained in such a manner that groundwater quality samples and depth-to-water measurements can be readily collected.

6.5 Abandoned Wells

Any person owning property upon which an abandoned well is located shall obtain a permit to destroy the well and shall destroy it or cause it to be destroyed within ninety (90) days of its discovery, or shall temporarily "inactivate" the well by filing an Intent of Future Use document with the Agency and maintaining it in accordance with the rules and regulations for "inactive and standby wells". As a condition of a well construction or reconstruction permit, any abandoned wells on the same property shall be destroyed in accordance with standards provided in this Ordinance.

6.6 Destruction of Wells

The General Manager is authorized, after reasonable efforts, to eliminate pollution, nuisance, contamination hazard or safety hazard, or to enforce the permanent abandonment by destruction of any well that is polluted, a nuisance, or is so located as to become polluted or contaminated or is a contamination hazard or a safety hazard. The General Manager is authorized to destroy any such well and to recover the cost of the destruction from the owner of the property on which the well is located.

6.7 Inactive or Standby Wells

If the owner intends to cease use of a well for a period of twelve (12) months or more, ~~he~~ he/she shall inform the Agency. Such a well shall be protected from any source of contamination while the well is temporarily out of service. The owner shall maintain such a well as required in the rules and regulations adopted pursuant to this Ordinance pertaining to "inactive and standby wells." If planned or actual inactivation exceeds five years, then more permanent action, such as destruction, shall be mandated. If Agency determines that an "inactive or stand-by well" has not been maintained pursuant to the rules and regulations, then the well will be considered "abandoned" and subject to the requirements for "abandoned wells" including its proper destruction.

6.8 Well Status Determinations

The final determination as to the status of a well will be made by the Agency

SECTION 7 - VIOLATIONS

7.1 Citation, Infraction or Misdemeanor

Any person who violates any of the provisions of this Well Ordinance, or fails to satisfy the terms of a Well Permit issued hereunder, is subject to being issued an administrative citation or charged with committing an infraction or a misdemeanor; where-upon conviction of the latter is punishable by such penalties as the Board shall from time to time set by ordinance.

7.2 Civil Enforcement

Any violation or threatened violation of this Ordinance may also be redressed by civil action. In addition to being subject to prosecution, any person who violates any of the provisions of this Well Ordinance may be made the subject of a civil action. Appropriate civil action includes, but is not limited to, injunctive relief and cost recovery.

7.3 Public Nuisance Finding

Notwithstanding any other action or penalty provided by law, any violation of this Ordinance shall be deemed a public nuisance, and the General Manager may commence action or proceedings for the abatement, removal and/or enjoinment thereof in any manner provided by law.

7.4 Remedies Cumulative

The remedies available to the Board to enforce this Well Ordinance are in addition to any other remedies available under ordinance or statute, and do not replace or supplant any other remedy but are cumulative thereto.

SECTION 8 - ENFORCEMENT

8.1 Right of Entry and Inspection

Representatives of the Agency shall have the right to enter upon any property at reasonable times to investigate any condition which appears to indicate the existence of a public nuisance as defined in this Ordinance. The representative shall, upon first presenting his/her credentials and identifying himself/herself as an employee of the Agency, be permitted to examine the property, take such samples, make such tests, and take such other steps reasonably necessary for the proper investigation of the suspected nuisance. If the property is unoccupied, a reasonable effort will be made to locate the owner or other person having charge or control of same. If entry is refused, recourse will be had to such remedies as are provided by law to secure entry.

8.2 Order of Nuisance Abatement

In the event a well subject to this Ordinance is found to be a public nuisance or constructed, repaired, reconstructed or destroyed contrary to the terms of this Ordinance or a permit issued for such well pursuant to this Ordinance, the General Manager may order the abatement of said well as a nuisance in accordance with the provisions of this Ordinance or pursuant to the provisions of the Water Code of the State of California. Similarly, if a well has been constructed without a Well Permit, the General Manager may order the abatement of said well as a nuisance in accordance with the provisions of this Well Ordinance or pursuant to the provisions of the Water Code of the State of California. In either case, the General Manager will send written notice to the owner of the land as shown on the most recent equalized assessment roll or to the permittee, at his/her address listed on the permit, which notice shall state the manner in which the well is in violation, what corrective measures must be taken, and the time within which such correction must be made.

8.3 Recording Notice of Violation

If the corrections listed in the notice given pursuant to Section 8.2 are not made as required in said notice, the General Manager with the approval of the Board of Directors, and after a reasonable opportunity for the person notified to be heard by said board, may record a Notice of Violation with the Office of the County Recorder. The owner(s) of the property, as revealed by the assessment roll, on which the violation is situated and any other person responsible for the violation shall be notified of the recordation, if their respective addresses are available.

8.4 Removal of Notice of Violation

If a Notice of Violation was recorded with the County Recorder, the Agency shall submit a Removal of Notice of Violation to the County Recorder when:

a) It is determined by the Agency, after review, that no violation of this Well Ordinance exists; or
b) All required and corrective work has been completed and approved by the Agency.

8.5 Abatement by Agency

If the corrections listed in the notice given pursuant to Section 8.2 are not made as required in said notice, the General Manager with the approval of the Board of Directors, and after a reasonable opportunity for the person notified to be heard by said board, may abate the condition and the cost thereof shall be charged against the permittee's deposit or bond, the person notified, or assessed against the subject property upon which the well is located as a lien pursuant to California Government Code Section 25845.

8.6 Emergency Abatement

If the General Manager finds that the condition or operation of a well subject to this chapter is, by its operation or maintenance, causing significant irreparable~~-~~ degradation to the groundwater, and that it is impracticable to notify the owner or permittee, ~~he~~ the General Manager may abate the condition without giving notice as required in Section 8.2, and the cost thereof shall be charged against the permittee's deposit or bond, the owner of the land as shown on the last equalized assessment roll, or assessed against the subject property upon which the well is located as a lien pursuant to California Government Code Section 25845.

SECTION 9 - APPEALS

Any person aggrieved by the refusal to issue a permit, by the terms of a permit, revocation or suspension of a permit, denial of request for variance or by any Agency decision made under this Ordinance, shall have the right of review and appeal.

9.1 Appeals to General Manager

The aggrieved person may, upon written request, have the matter reviewed by the General Manager. The written request shall be made within ten (10) days after the denial, revocation, suspension, or agency decision. Upon receipt of such a written request, the General Manager shall schedule the same for review within thirty (30) calendar days and give applicant at least fourteen (14) calendar days' written notice of the time and place of said review unless applicant agrees to a lesser time.

9.2 Appeals to Board of Directors

If the applicant is not satisfied with the results of the review by the General Manager, an appeal may be presented to the Zone 7 Board of Directors. The appeal to the Board shall be in writing and made within ten (10) calendar days after the General Manager's review is completed. It shall specify the grounds upon which it is taken, and shall be accompanied by a filing fee if and as established by the Board. The Agency Secretary shall set the appeal for hearing within fifteen (15) days following the filing of the appeal, and shall notify the appellant, in writing, of the time so set at least five (5) days prior to the hearing. After the hearing, the Board may affirm, reverse in whole or in part, or may modify the order or determination appealed from. The action of the Board shall be final and conclusive.

SECTION 10 - SEVERABILITY

If any section, subsection, paragraph, subparagraph, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; and the Board declares that this Ordinance and each section, subsection, paragraph, subparagraph, sentence, clause, and phrase thereof would have been adopted irrespective of the fact that one or more of such section, subsection, paragraph, subparagraph, sentence, clause, or phrase be declared invalid or unconstitutional.

Management Partners

Tri-Valley Water Roundtable
Held September 27, 2014
Discussion Notes

On Saturday, September 27, 2014, the Tri-Valley Water Policy Roundtable met from 9 – 11:30 am at Beeb's Sports Bar & Grill in Livermore, California. Agencies represented included the Cities of Livermore, Pleasanton, San Ramon and Dublin; Zone 7 Water Agency; Dublin San Ramon Services District; and the California Water Service Company. Pat O'Keeffe and Brittany Gabel of Management Partners served as the facilitator and recorder respectively.

Two objectives were established for the session, as follows:
- Discuss ways to enhance communication between the agencies, discuss issues and trade information.
- Identify key issues for ensuring a reliable quality water supply, for current and future users, including need for Delta water project.

Participants

Elected/Designated Representatives
- Mayor John Marchand, Livermore
- Council Member Doug Horner, Livermore
- Council Member Karla Brown, Pleasanton
- Council Member Kathy Narum, Pleasanton
- Council Member Harry Sachs, San Ramon
- President Georgean Vonheeder-Leopold, DSRSD
- Director Richard Halket, DSRSD
- Vice President Sarah Palmer, Zone 7
- Director Jim McGrail, Zone 7
- Director Dick Quigley, Zone 7
- Frank Vallejo, General Manager Cal Water

Staff
- Daniel Smith, Operations Services Director, Pleasanton
- Bert Michalczyk, General Manager, DSRSD
- Dan Gallagher, Operations Manager, DSRSD
- Brian Bornstein, City Engineer, San Ramon
- Roger Bradley, Assistant to the City Manager, Dublin
- Dan McIntyre, Public Works Director, Livermore
- Darren Greenwood, Assistant Public Works Director (Operations Manager), Livermore
- Jill Duerig, General Manager, Zone 7
- Nelson Fialho, City Manager, Pleasanton *(absent)*

Large Group Consensus About Top Policy Issues

The group identified eight issues for discussion at future Water Policy Roundtable sessions. They are not listed in priority order.

1. Increase sources of water supply (the diversity of supply, storage and intertie facilities with other agencies)
2. More extensive recycled water use (great deal of water still being exported via LAVWMA)
3. More aggressive conservation (water use reduction; the public is a great ally; regional options and solutions; example – water efficiency built into building code or home upgrade incentives common throughout the region)
4. Improve local storage (investigate possibility of accelerating acquisition of Chain of Lakes, Del Valle use and expansion, removal of sediment, etc.)
5. Groundwater recharge (injection with recycled water; the political issues of "toilet to tap," desalination, etc.)
6. Influence the California State Department of Water Resources (DWR) to provide the Tri-Valley with the water it needs; ensure the DWR meets their obligations; obtain funding; lobby State legislature and staff
7. Aggressively coordinate legislative changes on a region-wide basis (example – the existing disconnect between water scarcity and economic development and growth policy; should there be a connection?)
8. Balancing reliability and planned growth
9. Serious consideration of governance changes (e.g., a more coordinated approach or a JPA)

What was Valuable about Today's Session?

Several participants shared comments about what was valuable about spending time on these topics today:

- Idea sharing – a good start
- Opportunity to free-think in a roundtable
- Consensus building
- Getting the "rubber to meet the road"
- All tables came to conclusion that the water portfolio was important
- Listened to others and voiced concerns of staff and residents – we are in this together (droughts will come again in the future)

Public Comment

Four members of the public provided comments, as follows:

- More emphasis should be put on recycling (think internally to the Tri-Valley region – we need a more efficient system than carting our shower water into our gardens by hand).

- Basic concern is planned growth and reliability (commentator suggested that group should look and see if they can build purple pipes into the community; the water for the future needs to be built into the ground and someone should pay for it)
- Rebates are difficult to access and not sufficient, especially for seniors; rules are not communicated well
- Regarding the tunnels (Delta tunnels), we need to communicate that it's our water, not Southern California's

Bike Rack

These are items for future discussion.

- Cloud seeding
- Prop 1 Bond Measure
- 3 groundwater bills
- Delta tunnels – take a stance on it?
- Long-term consideration of contaminants in groundwater basin

Highlights of Small Group Discussions

Water Policy Roundtable participants were divided into three small groups. Each group discussed what is working well now within the Tri-Valley area regarding water policy, brainstormed policy issues that would benefit from Tri-Valley discussion, and selected their top priorities to share with the large group.

Group One

Group one participants included:

- Elected/Designated Representatives:
  - Mayor John Marchand, Livermore
  - Council Member Karla Brown, Pleasanton
  - Director Rich Halket, DSRSD
  - Director Jim McGrail, Zone 7

- Staff
  - Darren Greenwood, Assistant Public Works Director (Operations Manager), Livermore
  - Jill Duerig, General Manager, Zone 7

Working Well

- Water conservation
  - Good for residents, businesses and agriculture (using well water from fringe basins)
  - Automatic Meter Reading (AMR) versus Advanced Metering Infrastructure (AMI)

- Recycled water for residents
  - Public perception has improved (but current residential recycled water is not a significant water source)
  - Pleasanton use increasing
- Zone 7 water supply planning (annual sustainability report of 5-year horizon)

Policy Issues

- High cost of added reliability projects and unknown public support (Los Vaqueros, desalination)
- How to fully utilize groundwater basin storage available
- Diversity of supply is limited
  - Out of area storage is good, but not always available
- How to take advantage of local intertie options (SFPUC, EBMUD)
  - Is water even available in a drought?
- Lack of infrastructure to "wheel" water
- Certainty of recurring drought every 15-20 years
- Growth entitlements
  - Impact on water supply
  - State housing regulations
  - General Plans
  - "Normal" planning versus drought – do we build in reliability or allow for periodic conservation or outages
- Public frustration with continued building when they're forced to conserve
- DWR has control of system – how do we influence the state to improve O&M and possibly provide more supplies?
- Can state help with more funding/loans for increased reliability?

Priorities

- Diversity of supply
- How can tri-valley influence DWR?
- Balancing reliability and planned growth

Group Two Discussion

Group two participants included:

- Elected/Designated Representatives
  - Council Member Doug Horner, Livermore
  - President Georgean Vonheeder-Leopold, DSRSD
  - Director Dick Quigley, Zone 7
- Staff
  - Dan Gallagher, Operations Manager, DSRSD
  - Roger Bradley, Assistant to the City Manager, Dublin
  - Dan McIntyre, Public Works Director, Livermore

Working Well

- Willingness to work together
- Relationships continue to improve
- Quick response and implementation
- Very good results (better than expected)
- People embraced conservation
- People expect the future to be better

Policy Issues

- Clean water revival – reuse of stormwater and wastewater for groundwater recharge
- Legislation seeks to make groundwater recharge easier to accomplish
- Couple local storage with groundwater recharge
- Groundwater recharge needed to prevent subsidence
- Need to fix the state water project conveyance system
- Raise the level in Lake Del Valle
- Evaluate accelerating the acquisition of COL (chain of lakes)

Side Discussion

Are we willing to rely on conservation to get us through droughts?

- Feel this is unacceptable, too big of impact on quality of life
- Is not sustainable
- Increasing the reliability of the water supply will be expensive
- Would the area's treated wastewater be enough to recharge the aquifer
- Challenge will be convincing the public that it's safe to use treated wastewater for recharge
- May need to integrate efforts on a regional basis (Tri-valley)
- Possibly use existing recycled water facilities to begin reusing Livermore-Amador Valley Water Management Agency (LAVWMA) effluent (DSRSD, Livermore, Zone 7)

Priorities

- Increase sources of water supply
- Raise Lake Del Valle
- Accelerate acquisition of chain of lakes
- Groundwater recharge

Group Three Discussion

Group three participants included:

- Elected/Designated Representatives
    - Council Member Kathy Narum, Pleasanton
    - Council Member Harry Sachs, San Ramon
    - Vice President Sarah Palmer, Zone 7
    - Frank Vallejo, General Manager Cal Water

- Staff
    - Daniel Smith, Operations Services Director, Pleasanton
    - Bert Michalczyk, General Manager, DSRSD
    - Brian Bornstein, City Engineer, San Ramon

Working Well

- Public conservation
- Community among agencies during drought
- Outreach/public education
- Operational cooperation (agreement)
- Recycled water partnership (Livermore, Pleasanton, DSRSD)
- Recycled water expansion planning
- Open-mindedness regarding regionalization

Policy Issues

- Communication on conservation incentive programs
- Valley wide partnerships to embed conservation efforts
- Short/mid-term reliability improvements (5-10 years)
- Governance opportunities
- Explore broader regional opportunities (EBMUD, SFPUC, CCUD, etc.)
- Growth in times of drought
- Coordinated communication to State on Regional Housing Needs Assessment (RHNA) (pause or extend planning period)
- Coordinated conservation program
- Coordinated recycled water incentive program
- Future recycled water treatment for indirect potable reuse
- These issues are immediate (not 20 years down road)
- Public acceptance of recycled water
- More incentives
- Other "sources": rainwater capture, grey water, semi-pervious surfaces (how to incentivize)
- More storage opportunities
- Water quality

Top Priorities

- More aggressive "permanent" conservation (water use reduction)
- Developing and evaluating short and mid-term water supply and storage enhancements (local and regional)
- Serious consideration of governance changes (JPAs)
- Aggressive communication and coordination with legislature on relaxing policy mandates related to water

Next Steps

At the end of this part of the meeting, the group agreed that the next step would be to reconvene to discuss high-priority policy issues and to identify implementation actions.

Zone 7 Presentation

Following the policy round tables, Zone 7 General Manager Jill Duerig gave a short presentation on "Water Supply Planning and the Drought."

Adjournment

The meeting was adjourned by Mayor Marchand at about 11:45.

Water Resources Committee

Summary Notes

Meeting Date:	October 6, 2014	**Start Time:**	4:00 p.m.
Directors Present:	Sarah Palmer Bill Stevens	**Staff Present:**	M. Katen, T. Rooze, J. Chahal, J. Duerig
Directors Absent:	John Greci		

Director Palmer called the meeting to order at 4:05 p.m.

1. **Public Comment on Items Not on the Agenda**

   None.

2. **Well Ordinance and Fee Schedule**

   Staff gave a presentation and answered questions from the committee.
   <u>Summary of Presentation</u>

   Staff began by summarizing the history of well permitting in the County and stated that the District Act gives Zone 7 the authority to adopt a well ordinance. Staff then outlined the goals of the proposed well ordinance and provided a map for clarification:

   - To conform with the State's model ordinance;
   - To provide clear details on well permitting procedures, well construction; requirements, and steps to be taken for the enforcement of the rules;
   - To increase the protection of groundwater quality in the basin;
   - To provide for a Zone 7 fee program, independent of the County's; and
   - To strengthen Zone 7 position to maintain local control over basin management.

   Staff highlighted the following requirements of the new well ordinance:

   - Inside Zone 7 Service Area – permit will be required if a proposed borehole is expected to encounter groundwater
   - Inside DWR-defined groundwater basins - permit will be required for any boring greater than 10 feet deep.
   - Inside special requirement areas - special well construction requirements to ensure that contamination does not migrate to lower aquifers.

   Staff concluded the presentation showing a summary of their well permit fee analysis and asked for direction on this issue.

   <u>Ordinance Discussion</u>

   The committee asked for clarification regarding the differences between the County's ordinance, which Zone 7 is currently administering, and the State's model ordinance. Staff explained that the County's well ordinance was in place before the State issued its model ordinance and was lacking some definition of ordinance terms, procedural details, and basin-specific provisions as suggested by the model ordinance. Zone 7's proposed well ordinance is in full compliance with the State's model ordinance. Staff reiterated that the new ordinance will not change the way we currently run the well permit program, except for possible new fees, but rather it will put Zone 7 in a better position for protecting groundwater quality.

The committee asked if there were comments from other entities such as the cities or the County. Staff said that Zone 7 has received feedback from the Cities of Livermore, Dublin, Pleasanton, and Dublin San Ramon Services District and addressed them, as appropriate. Staff has also worked closely with Director Figuers on several of the program details.

Director Palmer asked if staff could change all masculine references to gender-neutral ones, such as converting "his" to "his/her". Staff stated they would revise the ordinance accordingly.

The committee commented on several specific ordinance provisions, and potential exclusions, such as the inclusion of "direct –push" borings in the soil boring definition and Permit Requirement section. The committee also commented that the ordinance does not specifically mention environmental borings in the definition of borings.

The committee asked why most agencies do not require permits for dewatering wells. Director Stevens stated that "dewatering" wells were similar to supply or extraction wells when considering the risk for groundwater contamination. Staff explained that those used temporarily for construction purposes were excluded in the Water Code and California Well Standards, but pointed out that the Zone 7 ordinance language only exempts those that are going to be removed by the associated excavation. Director Stevens suggested that "dewatering wells" be clearly explained because most contractors will miss it if the ordinance is left as is.

Director Stevens also asked about the requirement for backflow preventers on certain wells. Staff explained that they prevent the accidental backflow of chemicals or pollution (e.g., fertilizers, irrigation return flows, etc.) from connected tanks or reservoirs into the well. They also prevent untreated groundwater from entering the potable water distribution system, if one is present on the well site.

Director Stevens asked about requirements for the cement used for sealing wells and boreholes. Staff indicated that there are some recent studies that suggest sand-cement mixtures are best, however well sealing grout standards are not part of the well ordinance; but they are included in the well permit as conditions when issued. Director Stevens pointed out that 11-sack cement can be very difficult to drill out.

The committee suggested that the well ordinance provide for earlier notification of a job for the Inspecting Officer. Staff indicated that they would consider revising that provision in the Inspection section.

The committee asked why the "special requirement areas" did not include the high nitrate areas. Staff said that they were primarily established in the known chlorinated solvent contamination areas to protect boreholes and wells from being vertical conduits for the migration of this denser-than-water contamination, but that they were still formulating which other areas should be included. Staff also mentioned that Pleasanton asked that Zone 7 require a public hearing to modify the special requirement areas; however staff felt it was important that Zone 7 retain the flexibility to modify special permit areas in a more timely fashion than allowed by a public hearing process.

The committee asked for clarification on the "guarantee of performance" requirement. Staff indicated that the provision allows the General Manager to require a "guarantee of performance" bond in certain cases, such as when a contractor has a bad track record for completing work satisfactorily. Staff also indicated that this requirement is also in the State's model ordinance. The committee asked what would happen if abatement costs more than the bond. Staff indicated that the nuisance abatement clause would enable Zone 7 to seek a lien against the property title.

Permit Fee

Staff outlined the procedures used for calculating program costs as the basis for the proposed fees. Calculated costs of the well permitting, inspections and program administration were included then compared to fee schedules from other well permitting agencies. Staff also stated that the fee adoption will be a separate Resolution from the well ordinance, and therefore fees can be changed in the future if they do not cover actual costs.

Director Stevens discussed the possibility of basing the soil boring permit fee on the number of days of drilling instead of on the number of boreholes or parcels. Staff pointed out the difficulty in predicting the number of days for the permit and that it would be a cumbersome process to refund surplus fees if deposits were collected ahead of time.

The committee suggested that the cost for a geotechnical boring permit should be less than a permit for a contamination investigation because of the higher risks involved with contamination investigations. Director Stevens suggested a fee of around $300 for geotechnical borings. Staff pointed out that soil borings were the bulk of permits issued, therefore if the fee for geotechnical boring permits were kept low, other permit fees would have to be high if the agency is to recoup its expenses.

Director Stevens also discussed the justification for charging a higher fee for cathodic well permits because they are often very deep and cross several aquifers. Staff indicated that most agencies charge the same price for a cathodic well as a regular well.
Staff stated they would run the numbers and try to come up with a modified fee schedule that covers program costs and substantially meets the discussed objectives. The committee reiterated the need for a simple, easy-to-understand fee schedule.

The committee concluded the meeting recommending that staff bring the proposed well ordinance with the changes discussed to the full Board. The committee also recommended bringing the proposed fee schedule forward which attempts to recover all costs associated with the program.

3. Verbal Reports

None

4. Adjournment

The meeting was adjourned by Director Palmer at 5:20 p.m.

10/5/14 Board written/narrative comments By Dick Quigley

Sept 22 & 23 participated in ACWA speaker panel conference calls for ACWA Region 5 program on outside-the-box approaches to watershed sustainability in the Tri-Valley scheduled for Monday, October 20. See http://www.acwa.com/ACWARegion5.

Sept 24 attended a Tri-Valley Conservancy board meeting where our own Jill Duerig was the keynote speaker. Interesting assortment of questions from familiar faces, after a very nice presentation from Zone 7.

Sept 25 & 26 attended ACWA board meeting in Sacramento. Link to ACWA News: http://www.acwa.com/sites/default/files/news/digital-acwa-news/2014/09/vol42_no9_sept-19.pdf.

Three main items from the ACWA Board Meeting on September 26:

1) Water Bond update: field poll recently released shows a lot of public support for the Proposition 1 (the water bond), over 50% support. The Governor's team is taking the lead on campaigning for Prop 1. The ACWA Board of directors approved a resolution of support for Props 1 and 2. Yes on Proposition 1 and Proposition 2 campaign website: http://www.yesonprops1and2.com/prop-1.

2) Senior Legislative Advocate reported on the groundwater legislation that passed and the next steps. On Aug 29, the legislature passed a three-bill package containing Senate Bills 1168 and 1319 by Senator Pavley and Assembly Bill 1739 by Assembly member Dickinson that proposes the "Sustainable Groundwater Management Act." Now that the governor has signed the bills, ACWA will be working closely with its members to make sure that DWR has our input as it moves forward in the implementation process.

3) The ACWA Board voted on a 2015 budget. Staff provided the Board with 6 options for consideration. The ACWA Board voted to go with an altered version of option #6 (outlined in the board packet); but rather than an 11% dues increase, the board agreed on a 5.5% dues increase this year and another 5.5% dues increase in 2016, and will use reserves in 2015 until the second 5.5% increase.

Let me know if you have any questions or suggestions.

Thanks,
DQ

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY, LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: ADMINISTRATION
CONTACT: Jill Duerig

AGENDA DATE: October 15, 2014 **ITEM NO. 18a**

SUBJECT: GENERAL MANAGER'S REPORT

SUMMARY: The following highlights a few of the key activities which occurred during September. Also attached is a list of the General Manager (GM) contract(s) executed during the month.

Environmental & External Affairs:

- The California Department of Water Resources (DWR) began the annual lowering of Lake Del Valle in late August. By the end of September, the level had dropped to 34,900 acre feet/AF (elevation 695.5 feet), with releases continuing at 100 cubic feet per second (200 AF/day). The lower level allows DWR to meet the Fall target elevation of 685' (28,500 AF) by October 30th for flood control purposes and allows DWR to proceed with the Del Valle Outlet Tower and Tunnel repair project in November.

- On September 12th, DWR issued a "Notice of Preparation" of an Environmental Impact Report (EIR) for the Water Supply Contract Extension Project and has posted it on the DWR website (see http://www.water.ca.gov/public_notices/docs/NOP-EIR_for_Water_Supply_Contract_Extension_Project.pdf).

Engineering and Flood Control:

- The chemical separation work at the Patterson Pass Water Treatment Plant continues to move forward. The new wall and the wall extension have been completed. The high-density polyethylene (HDPE) piping has been installed. Coating work is also beginning.

- Phase Two of the Del Valle Super-Pulsator Rehabilitation Project began with staging of materials and equipment on September 29th and demolition of existing Super-Pulsator equipment in Unit #4 on the morning of October 1st.

- Initial testing of the new Supervisory Control and Data Acquisition (SCADA) software is complete and was successful. The upgraded software solves some of the problems experienced with the older software. Development of a work plan and hardware specifications for the next phase of the upgrade is proceeding.

Administration:

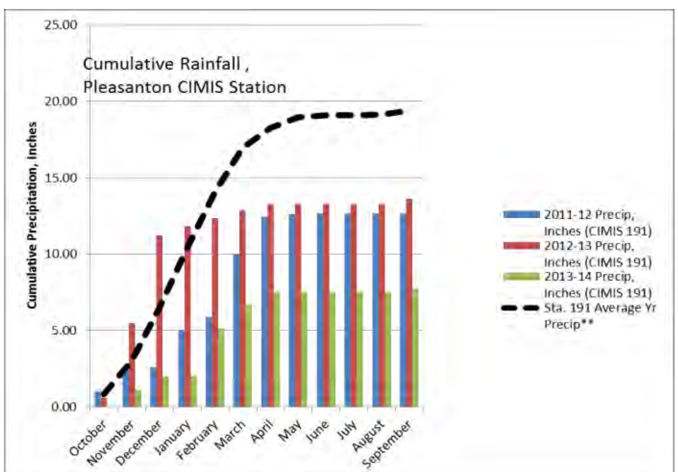
- Zone 7 achieved "Climate Registered" status with The Climate Registry for years 2010 through 2012. This allows Zone 7 to use the Climate Registered blue logo on public documents, maintaining our status as environmental stewards.

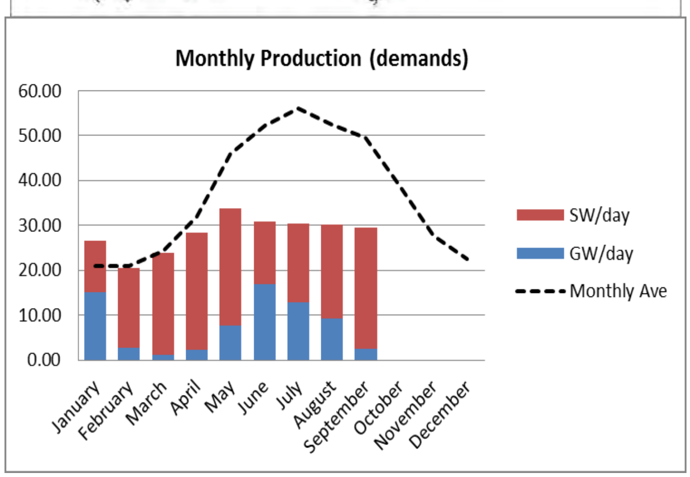
Operations and Maintenance:

- Approximately 8,500 gallons of brine overflowed at the Mocho Groundwater Demineralization Plant (MGDP) but it was all contained in the 14,000-gallon tank designated for that use. The cause of the overflow was rectified and the brine will be pumped back into the brine vault for normal discharge under Zone 7's permit with DSRSD.

- Even with the little bit of rain near the end of September (0.26 inches recorded at the California Irrigation Management Information Station 191 in Pleasanton on September 26th), the Water Year (October 1, 2013 through September 30, 2014) ended with only 7.8 inches received locally, about 40% of an average year (see graph, below).

- As of September 1st, surface water from exchanges (allowing recovery from Semitropic and Cawelo groundwater banks) became available and production at the treatment plants was increased by 7 million gallons per day (MGD). September showed slightly lower demands than the summer months, with average production at 30 million gallons per day (MGD), of which over 90% was imported surface water.





Monthly List of GM Contracts
September 2014

Contracts:

Morrison & Associates, Inc.	$20,000	Curriculum Design and Classroom Presentations for Tri-Valley High School Students
Cameron-Cole, LLC	4,780	Greenhouse Gas Inventory Verification For Zone 7 Report
Total September 2014	$24,780	

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7

100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING DIVISION: ADMINISTRATIVE SERVICES
CONTACT PERSON: JAVIA GREEN

AGENDA DATE: October 15, 2014 ITEM NO. **18b**

SUBJECT: **Monthly Budget Report**

SUMMARY:

The new financial software system (New World) was implemented in FY 13/14. The New World software provides monthly reports of revenue and expenses. This report provides a summary of FY 14/15 budget performance and an explanation of any major variances for the period July 1, 2014 through September 30, 2014.

The following provide explanations and additional details concerning this report:

The period of July 1, 2014 through September 30, 2014 is reported herein, which is approximately 25% of the fiscal year or three months. However, Zone 7's revenue and expense cycles do not follow this pattern. For example, the first installment of property tax revenue is not received until December and capital project expenses vary based on construction schedules. In addition, by September, we typically expect anywhere between 15-20% of the budget has been used, representing only about two months (17%) of expenses rather than three. This is because services rendered/goods purchased in September would typically be billed and paid for in October. Other variations are due to the as-needed and seasonal nature of expenses.

The information in the following tables summarizes, by fund, the attached Annual Budget by Account Classification Report:

Water Enterprise Fund – Fund 100 (formerly Fund 52)

Category	FY 14/15 Adopted Budget	FY 14/15 YTD Actual	FY 14/15 % Used/Received
Revenue	$ 34,461,062	$ 5,619,331	16%
Expenses	$ 49,680,609	$ 4,622,719	9%

This fund provides financing for the acquisition and conveyance of raw water, treatment and delivery to the Zone 7 service area. The main source of revenue for this fund is water sales. FY 14/15 YTD revenue is primarily from the sale of 5,400 acre-feet of treated water through August 2014. The month of August 2014 treated water sales of $2.6M are 60% of the August 2013 (pre-drought) amount of $4.3M; staff expects this conservation trend to continue throughout calendar year 2014. September water sales revenue is not reported because the meter reading data that generates the monthly water billing was not available at the time of this report. Other revenue is from grant proceeds and DWR refunds; both are greater than the Adopted Budget estimates.

Expenses are significantly less than budget because the first quarter transfer of $4.2M to Fund 120 has not been posted yet nor was imported water really available before September 1st. YTD expenses include water production costs, maintenance, miscellaneous services/supplies and memberships and dues. While imported water purchases are low, utility and chemical costs are slightly ahead of budget because Zone has pumped more groundwater this summer and used higher dosages of chemicals to deal with source water quality issues.

State Water Facilities Fund – Fund 110 (formerly Fund 51)

Category	*FY 14/15 Adopted Budget*	*FY 14/15 YTD Actual*	*FY 14/15 % Used/Received*
Revenue	$ 14,060,937	$ 120,643	1%
Expenses	$ 14,227,251	$ 7,540,666	53%

This is a pass-through fund for fixed charges associated with the State Water Project, assessed as a property tax override. The first installment of property tax payments is not usually received until November. YTD revenue is from DWR refunds. YTD expenses reflect payments to DWR for fixed costs. DWR charges are both monthly and semi-annual – the Transportation Capital charges and the SBA Improvement and Enlargement debt service payment are paid in January/ July and March/September, respectively.

Water Renewal/Replacement & System-Wide Improvements – Fund 120 (formerly Fund 72)

Category	*FY 14/15 Adopted Budget*	*FY 14/15 YTD Actual*	*FY 14/15 % Used/Received*
Revenue	$ 13,129,324	$ 144,438	1%
Expenses	$ 7,578,891	$ 1,016,974	13%

This fund pays for capital projects addressing the replacement and improvement of the current water treatment and delivery system. The primary source of funding is a quarterly transfer from Fund 100 – Water Enterprise; the first quarter transfer isn't booked until September. FY 14/15 YTD revenue is from the sale of plans and specifications and Dougherty Valley Facility Use Fees. FY 14/15 YTD expenses reflect capital project expenses such as a portion of the Chain of Lakes Well 5 costs, the DVWTP Filter 1 Media Replacement Project, PPWTP Ferric Chloride & Caustic Improvements, and this fund's share of the North Canyons Building Lease. Capital project expenses are tied to construction schedules. Projects related to the existing treatment facilities are typically done during the fall and winter when water demands are lower, and plant flows can be reduced or interrupted to facilitate construction.

Water Expansion – Fund 130 (formerly Fund 73)

Category	FY 14/15 Adopted Budget	FY 14/15 YTD Actual	FY 14/15 % Used/Received
Revenue	$ 22,042,020	$ 3,092,435	14%
Expenses	$ 19,485,138	$ 10,921,509	56%

This fund is intended to provide funding for new facilities and supplies to meet the demands of new development, many of them fixed (i.e., bond payment obligations for debt incurred by others). The primary source of revenue is connection fees. YTD revenue is primarily comprised of connection fee revenue from 133 connections. Since July 1, 2014, a total of 80 connection fee credits have been used totaling $1.9M, while 369 credits remain outstanding, valued at $8.9M at the 2014 connection fee level (see Chart 1 attached). FY 14/15 YTD expenses reflect this fund's portion of capital project expenses such as Chain of Lakes Well 5 costs and the SBA Improvement and Enlargement debt service payment ($9.8M).

Flood Protection Operations – Fund 200 (formerly Fund 50)

Category	FY 14/15 Adopted Budget	FY 14/15 YTD Actual	FY 14/15 % Used/Received
Revenue	$ 6,505,936	$ 40,077	1%
Expenses	$ 10,416,092	$ 765,121	7%

This fund provides for general administration and the maintenance and improvement of the existing flood protection system. The primary source of revenue is property taxes. Similar to Fund 110 - State Water Facilities Fund, property tax revenue will not be posted until taxes are received by the County Auditor in April and November of each year. Expenses include labor, a fraction of the North Canyons lease payment and flood protection maintenance. There are a number of flood protection maintenance activities that occurred in September that were not posted at the time of this report. Next month's Monthly Budget Report will reflect payments made for these maintenance activities.

Flood Protection and Stormwater Drainage (DIF) – Fund 210 (formerly Fund 76)

Category	FY 14/15 Adopted Budget	FY 14/15 YTD Actual	FY 14/15 % Used/Received
Revenue	$ 2,646,500	$ 30,729	1%
Expenses	$ 5,755,275	$ 177,588	3%

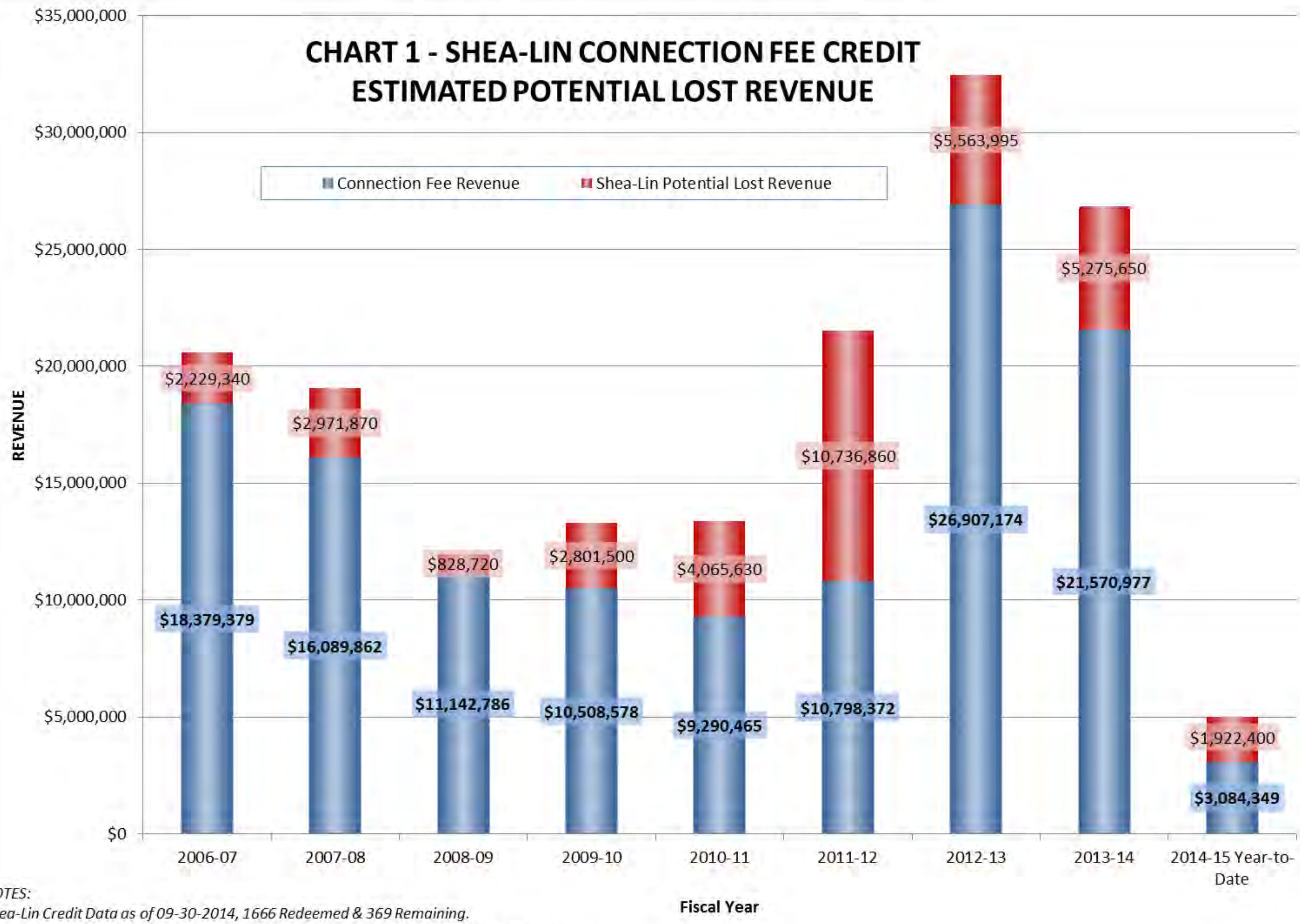
This fund pays flood protection facilities required for new development. The primary source of revenue is development impact fees. Zone 7 tends to receive most development impact fee revenue in the spring/early summer. FY 14/15 YTD capital project expenses are for projects such as the Flood Control Hydrology Study, SMMP Update and Cope Lake Slope Repair.

RECOMMENDED ACTION:

Information only.

ATTACHMENTS:

CHART 1 – Shea-Lin Connection Fee Credit Estimated Potential Lost Revenue
Zone 7 Water Agency Annual Budget by Account Classification Report
Zone 7 Water Agency Fund Equity Changes Report



NOTES:
Shea-Lin Credit Data as of 09-30-2014, 1666 Redeemed & 369 Remaining.
Revenue as of 10-01-2014 for DSRSD, 7-31-14 for Pleasanton, & 06-30-14 for Livermore
Initial Calendar Year 2000 Payment of $10,000,000 in for Credits is Not Reflected in This Graph

ZONE 7 WATER AGENCY

Annual Budget by Account Classification Report

Budget Summary for the period 7/1/2014 - 9/30/2014

	FY 14/15 Budget	FY14/15 YTD Actual	% Used/Rec
FUND: 100 Water Enterprise Operations			
Revenue			
411 - Water Sales & Service	$34,246,611.00	$5,365,609.95	16%
441 - Charges for Services	$0.00	$550.00	-
452 - Aid from Governmental Agencies - State	$0.00	$102,614.93	-
461 - Investment Earnings	$75,000.00	$0.00	0%
462 - Rents and Royalties	$65,263.00	$26,706.15	41%
464 - Fines and Penalties	$0.00	$21.99	-
481 - Other Revenue	$74,188.00	$123,827.80	167%
Revenue Totals	$34,461,062.00	$5,619,330.82	16%
Expenditures			
511 - Personal Services - Salaries and Wages[1]	$13,859,924.00	$1,643,548.66	12%
512 - Personal Services - Overtime[1]	$215,074.00	$10,439.14	5%
513 - Personal Services - Benefits[1]	$7,120,240.00	$996,676.64	14%
600 - Labor & Overhead Distributed[2]	($8,402,436.00)	($672,883.85)	8%
611 - Purchased Services	$4,356,103.00	$251,856.92	6%
621 - Water	$8,883,578.00	$702,273.47	8%
631 - Chemicals	$2,250,973.00	$476,053.16	21%
641 - Utilities	$1,922,616.00	$457,842.98	24%
643 - Communications	$174,097.00	$24,431.39	14%
651 - Cleaning Services	$50,931.00	$4,450.07	9%
652 - Repairs and Maintenance	$2,705,999.00	$297,515.09	11%
653 - Rental Services	$792,900.00	$10,881.22	1%
661 - General Office Services/ Supplies	$586,247.00	$48,354.47	8%
662 - Organizational Membership/ Participation	$467,783.00	$302,372.32	65%
665 - Other Services/ Supplies	$827,130.00	$19,194.76	2%
667 - Training and Travel	$402,045.00	$21,381.14	5%
669 - Special Departmental Expense	$615,781.00	$28,331.43	5%
671 - Equipment, Furniture and Vehicles	$27,700.00	$0.00	0%
691 - Transfers	$12,823,924.00	$0.00	0%
Expenditure Totals	$49,680,609.00	$4,622,719.01	9%
FUND Total: Water Enterprise Operations	($15,219,547.00)	$996,611.81	

	FY 14/15 Budget	FY14/15 YTD Actual	% Used/Rec
FUND: 110 State Water Facilities			
Revenue			
411 - Water Sales & Service	$1,311,950.00	$0.00	0%
421 - Property Taxes	$11,350,000.00	$0.00	0%
452 - Aid from Governmental Agencies - State	$45,000.00	$0.00	0%
453 - Aid from Governmental Agencies - Local	$610.00	$0.00	0%
461 - Investment Earnings	$15,000.00	$0.00	0%
481 - Other Revenue	$1,338,377.00	$120,643.00	9%
Expenditures			
621 - Water	$14,227,251.00	$7,540,665.60	53%
669 - Special Departmental Expense	$0.00	$0.00	-
Expenditure Totals	$14,227,251.00	$7,540,665.60	53%
FUND Total: State Water Facilities	($166,314.00)	($7,420,022.60)	

ZONE 7 WATER AGENCY

Annual Budget by Account Classification Report

Budget Summary for the period 7/1/2014 - 9/30/2014

	FY 14/15 Budget	FY14/15 YTD Actual	% Used/Rec
FUND: 120 Water Enterprise Capital IR&R			
Revenue			
431 - Development Fees	$250,000.00	$125,419.40	50%
441 - Charges for Services	$2,500.00	$150.00	6%
452 - Aid from Governmental Agencies - State	$0.00	$18,868.47	-
461 - Investment Earnings	$52,900.00	$0.00	0%
499 - Transfers	$12,823,924.00	$0.00	0%
Revenue Totals	$13,129,324.00	$144,437.87	1%
Expenditures			
600 - Labor & Overhead Distributed[1]	$1,163,962.00	$239,464.60	21%
611 - Purchased Services	$1,375,033.00	$66,679.27	5%
653 - Rental Services	$549,198.00	$136,384.74	25%
661 - General Office Services/ Supplies	$150,000.00	$7,174.49	5%
665 - Other Services/ Supplies	$0.00	$9,909.20	-
667 - Training and Travel	$0.00	$0.00	-
669 - Special Departmental Expense	$895,698.00	$0.00	0%
671 - Equipment, Furniture and Vehicles	$120,000.00	$0.00	0%
672 - Land and Facility Improvements	$3,325,000.00	$557,361.52	17%
Expenditure Totals	$7,578,891.00	$1,016,973.82	13%
FUND Total: Water Enterprise Capital IR&R	$5,550,433.00	($872,535.95)	
FUND: 130 Water Enterprise Cap Expansion			
Revenue			
431 - Development Fees	$19,020,120.00	$3,084,348.75	16%
452 - Aid from Governmental Agencies - State	$0.00	$8,086.48	-
461 - Investment Earnings	$81,100.00	$0.00	-
481 - Other Revenue	$2,940,800.00	$0.00	0%
Revenue Totals	$22,042,020.00	$3,092,435.23	14%
Expenditures			
600 - Labor & Overhead Distributed[1]	$607,457.00	$66,550.66	11%
611 - Purchased Services	$1,296,400.00	$48,498.67	4%
621 - Water	$16,744,211.00	$10,195,892.35	61%
643 - Communications	$0.00	$0.00	-
653 - Rental Services	$426,376.00	$106,077.03	25%
662 - Organizational Membership/ Participation	$694.00	$0.00	0%
669 - Special Departmental Expense[3]	$410,000.00	$4,770.60	1%
672 - Land and Facility Improvements	$0.00	$499,719.24	-
Expenditure Totals	$19,485,138.00	$10,921,508.55	56%
FUND Total: Water Enterprise Cap Expansion	$2,556,882.00	($7,829,073.32)	

ZONE 7 WATER AGENCY

Annual Budget by Account Classification Report

Budget Summary for the period 7/1/2014 - 9/30/2014

	FY 14/15 Budget	FY14/15 YTD Actual	% Used/Rec
FUND: 200 Flood Protection Operations			
Revenue			
421 - Property Taxes	$6,307,731.00	$0.00	0%
441 - Charges for Services	$13,000.00	$12,617.98	97%
452 - Aid from Governmental Agencies - State	$54,000.00	$0.00	0%
453 - Aid from Governmental Agencies - Local	$10,700.00	$0.00	0%
461 - Investment Earnings	$25,000.00	$15.88	0%
462 - Rents and Royalties	$60,505.00	$27,442.71	45%
481 - Other Revenue	$35,000.00	$0.00	0%
Revenue Totals	$6,505,936.00	$40,076.57	1%
Expenditures			
600 - Labor & Overhead Distributed[1]	$2,528,996.00	$329,597.27	13%
611 - Purchased Services	$5,051,000.00	$121,671.46	2%
643 - Communications	$3,000.00	$1,618.57	54%
651 - Cleaning Services	$10,000.00	$1,170.80	12%
652 - Repairs and Maintenance	$2,355,491.00	$223,568.36	9%
653 - Rental Services	$159,322.00	$37,347.70	23%
661 - General Office Services/ Supplies	$19,550.00	$245.37	1%
662 - Organizational Membership/ Participation	$158,000.00	$0.00	0%
665 - Other Services/ Supplies	$86,000.00	$276.38	0%
667 - Training and Travel	$31,400.00	$2,325.00	7%
669 - Special Departmental Expense	$13,333.00	$0.00	0%
672 - Land and Facility Improvements	$0.00	$47,300.00	-
Expenditure Totals	$10,416,092.00	$765,120.91	7%
FUND Total: Flood Protection Operations	($3,910,156.00)	($725,044.34)	
FUND: 210 Flood Protection/Drainage DIF			
Revenue			
431 - Development Fees	$2,530,000.00	$30,728.61	1%
461 - Investment Earnings	$91,500.00	$0.00	0%
481 - Other Revenue	$25,000.00	$0.00	0%
Revenue Totals	$2,646,500.00	$30,728.61	1%
Expenditures			
600 - Labor & Overhead Distributed[1]	$655,730.00	$37,271.32	6%
611 - Purchased Services	$4,727,723.00	$49,809.27	1%
653 - Rental Services	$121,822.00	$30,307.71	25%
669 - Special Departmental Expense	$250,000.00	$0.00	0%
672 - Land and Facility Improvements	$0.00	$60,200.00	-
Expenditure Totals	$5,755,275.00	$177,588.30	3%
FUND Total: Flood Protection/Drainage DIF	($3,108,775.00)	($146,859.69)	5%
Revenue Grand Totals:	$92,845,779.00	$9,047,652.10	10%
Expenditure Grand Totals:	$107,143,256.00	$25,044,576.19	23%
Net Grand Totals:	($14,297,477.00)	($15,996,924.09)	

Notes:

1. Agency-wide salaries, wages, overtime and benefits are budgeted in Fund 100, then distributed to other funds based on assignments and work demands.

2. This is a credit to Fund 100 for salaries, wages, overtime and benefits charged to other funds.

Zone 7 Water Agency
Fund Equity Changes Report

Through 09/30/14
Summary Listing

FUND	FUND Description	July 1, 2014 Unaudited Fund Balance	YTD Revenues	YTD Expenses	September 30, 2014 Estimated Fund Balance
Fund Category **Proprietary Funds**					
Fund Type **Enterprise Funds**					
100	Water Enterprise Operations	30,450,709	5,619,331	5,271,411	30,798,629
110	State Water Facilities	8,849,889	120,643	7,540,666	1,429,867
120	Water Enterprise Capital IR&R	18,690,974	144,438	1,134,760	17,700,652
130	Water Enterprise Cap Expansion	33,346,252	3,092,435	10,921,509	25,517,179
	Fund Type **Enterprise Funds** Totals	91,337,825	8,976,847	24,868,345	75,446,326
	Fund Category **Proprietary Funds** Totals	91,337,825	8,976,847	24,868,345	75,446,326
Fund Category **Governmental Funds**					
Fund Type **Special Revenue Funds**					
200	Flood Protection Operations	15,260,267	40,077	1,021,058	14,279,285
210	Flood Protection/Drainage DIF	41,506,429	30,729	177,588	41,359,570
	Fund Type **Special Revenue Funds** Totals	56,766,696	70,805	1,198,647	55,638,855
	Fund Category **Governmental Funds** Totals	56,766,696	70,805	1,198,647	55,638,855
	Grand Totals	148,104,521	9,047,652	26,066,992	131,085,181

Please note:

This Fund Equity Changes Report shows the unaudited beginning balance of total reserves as of July 1, 2014 (which is the balance of total reserves as of June 30, 2014 carried over to July 1, 2014 as the beginning balance) and posted revenues and expenses which have occurred as of the date that the report was created.

There are other timing differences in posting revenues which have been earned and expenses which have been incurred (e.g., payroll).

The July 2014 report (Unaudited Reserve Balances as of July 31, 2014) calculated individual reserve balances on the basis of posted revenues and expenses as of the date of the report. This led to some questions as to why there was no decrease in certain reserves. This Fund Equity Changes Report reports total reserve balances as of the date of the report. An accurate allocation of the individual reserves cannot be calculated without considering all of the revenues earned and expenses incurred for the period and then allocating the reserves based on the amounts budgeted for each reserve. This is why the individual reserve balances cannot be estimated monthly.

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
100 NORTH CANYONS PARKWAY • LIVERMORE, CA 94551 • PHONE (925) 454-5000 • FAX (925) 454-5727

ORIGINATING SECTION: ADMINISTRATIVE SERVICES
CONTACT: TOM PICO

AGENDA DATE: October 15, 2014 ITEM NO. **18c**

SUBJECT: September Legislative Update

SUMMARY:

Zone 7 staff, with the support of Agency consultants, monitors legislation that is being considered in Sacramento, as well as other political activities of interest to the Agency.

- September 30th was the deadline for the governor to take action on the bills that the Legislature passed during the final year of its two-year session. The session ended August 31st. A new Legislative session will start January 4, 2015.
- The governor signed the state's first-ever groundwater monitoring and regulation legislation, a package of three bills that passed in the final hours of the session with bipartisan support and bipartisan opposition. The opposition generally came from legislators representing major farming areas. Both main bills (AB 1739, Dickinson, D-Sacramento) and (SB 1168, Pavley, D-Agoura Hills) were amended numerous times after consultations with stakeholders during the legislative process. The third bill (SB 1319, Pavley) was added to the package by the governor's office to address some remaining stakeholder concerns. As reported previous, thanks to Zone 7's lobbying team, Zone 7 is named as an existing groundwater sustainability agency (SB 1168, chapter 4; Water Code Section 107239(c)(1)(A)).
- Governor Brown also signed SB 2067 (Weber) and SB 1420 (Wolk) that are related to water management plans as well as AB 2104 (Gonzales) and SB 922 (Nielsen) that relate to homeowners' associations rules. The legislation forbids associations from fining or otherwise penalizing homeowners who allow their lawn to go brown in a drought or replace it with different landscaping. ACWA supported all four bills.
- Governor Brown vetoed AB 1226 (Bonta), a bill allowing either party in collective bargaining to request mediation after declaring an impasse and exempting public agencies with arbitration processes that result in binding arbitration. Zone 7 would have been an exempt agency under the proposed language.
- A September poll by the Public Policy Institute of California showed widespread support for Proposition 1, the water bond, on the November 4 ballot. Likely voters support the bond by a 2-1 margin (58 percent to 29 percent). The strongest support was in the Bay Area and the Inland Empire in Southern California.

RECOMMENDED ACTION: Information only

EXECUTIVE SUMMARY
State Legislation

The Gualco Group, Inc.®

Prepared for the Zone 7 Water Agency, Eastern Alameda County by The Gualco Group, Inc.

For the October 15, 2014 Board Meeting

Bill	Topic	Synopsis	Staff Recommendation	Status of the Bill/Comments as of 09/30/2014
Integrated Regional Water Management				
AB 1249 (Salas)	Integrated regional water management plans: nitrate, arsenic, perchlorate, or hexavalent chromium contamination	If an area within the boundaries of an integrated regional water management plan has nitrate, arsenic, perchlorate, or hexavalent chromium contamination, this bill would require that the plan include a description of (1) the location and extent of that contamination in the region, (2) the impacts caused by the contamination to communities within the region, (3) existing efforts being undertaken in the region to address the impacts, and (4) any additional efforts needed to address the impacts.	Watch	Chaptered by Secretary of State - Chapter 717, Statutes of 2014
Stormwater				
SB 985 (Pavley)	Stormwater resource planning	This bill would require a stormwater resource plan to be submitted to any applicable regional water management group, to identify and prioritize stormwater and dry weather runoff capture projects for implementation in a prescribed quantitative manner and to prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects.	Watch	Chaptered by Secretary of State - Chapter 555, Statutes of 2014

Water Conservation

AB 2104 (Gonzalez)	Common interest developments: water-efficient landscapes	This bill would provide that a provision of the governing documents or of the architectural or landscaping guidelines or policies shall be void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting, low water-using plants as a group or as a replacement of existing turf, or if the provision has the effect of prohibiting or restricting compliance with a local water-efficient landscape ordinance or water conservation measure.	Watch	Chaptered by Secretary of State - Chapter 421, Statutes of 2014
AB 2636 (Gatto)	CalConserve Water Use Efficiency Revolving Fund	This bill would establish the CalConserve Water Use Efficiency Revolving Fund. This bill would require moneys in the fund to be used for purposes that include, but are not limited to, at-or-below market interest rate loans to local agencies and would permit the Department of Water Resources to enter into agreements with local agencies that provide water or recycled water service to provide loans.	Watch	Chaptered by Secretary of State - Chapter 825, Statutes of 2014

Water Management

AB 2067 (Weber)	Urban water management plans	The bill would require an urban retail water supplier and an urban wholesale water supplier to provide narratives describing the supplier's water demand management measures, as provided. The bill would require, for urban retail water suppliers, the narrative to address the nature and extent of each water demand management measure implemented over the past 5 years and describe the water demand management measures that the supplier plans to implement to achieve its water use targets. The bill would require each urban water supplier to submit its 2015 plan to the Department of Water Resources by July 1, 2016.	Watch	Chaptered by Secretary of State - Chapter 463, Statutes of 2014
SB 936 (Monning)	Utilities	This bill would authorize the Monterey Peninsula Water Management District to issue water rate relief bonds if the Public Utilities Commission finds that the bonds will provide savings to water customers on the Monterey Peninsula.	Watch	Chaptered by Secretary of State - Chapter 482, Statutes of 2014

SB 1036 (Pavley)	Urban water management plans	This bill would authorize an urban water supplier to include within an urban water management plan certain energy-related information, including, but not limited to, an estimate of the amount of energy used to extract or divert water supplies. This bill would require the department to include in its guidance for the preparation of urban water management plans a methodology for the voluntary calculation or estimation of the energy intensity of urban water systems.	Watch	Chaptered by Secretary of State - Chapter 485, Statutes of 2014
SB 1420 (Wolk)	Water management: urban water management plans	This bill would require an urban water management plan to quantify and report on distribution system water loss. The bill would authorize water use projections to display and account for the water savings estimated to result from adopted codes, standards, ordinances or transportation and land use plans, when that information is available and applicable to an urban water supplier.	Watch	Chaptered by Secretary of State - Chapter 490, Statutes of 2014

Groundwater

AB 1739 (Dickinson)	Groundwater management	The bill would authorize the department or a groundwater sustainability agency to provide technical assistance to entities that extract or use groundwater to promote water conservation and protect groundwater resources.	Watch	Chaptered by Secretary of State - Chapter 347, Statutes of 2014
SB 1168 (Pavley)	Groundwater management	The bill would authorize the department or a groundwater sustainability agency to provide technical assistance to entities that extract or use groundwater to promote water conservation and protect groundwater resources.	Watch	Chaptered by Secretary of State - Chapter 346, Statutes of 2014
SB 1319 (Pavley)	Groundwater	This bill would authorize the state board to designate certain high- and medium-priority basins as a probationary basin if, after January 31, 2025, prescribed criteria are met, including that the state board determines that the basin is in a condition where groundwater extractions result in significant depletions of interconnected surface waters.	Watch	Chaptered by Secretary of State - Chapter 348, Statutes of 2014.

Water Quality

AB 1707 (Wilk)	Water quality: scientific peer review	Under existing law, a proposed rule is defined to include, among other things, a policy adopted by the State Water Resources Control Board that has the effect of a regulation and that is adopted in order to implement or make effective a statute. This bill would require the state board to post on its Internet website a copy of the external scientific peer review conducted for proposed rules of the state board or a California regional water quality control board.	Watch	Chaptered by Secretary of State - Chapter 722, Statutes of 2014

Collective Bargaining: Mediation

AB 2126 (Bonta)	Meyers-Milias-Brown Act: mediation.	This bill allows either party in collective bargaining to request mediation after providing the other party with a written declaration of an impasse requires and implements a timeline for the parties to agree on a mediator, process for the appointment of a mediator if the parties fail to agree on one, but exempts from these requirements public agencies that have an arbitration process that results in a binding agreement. With respect to fact-finding procedures, the bill provides that the employee organization's request is not limited to an impasse over a Memorandum of Understanding, and may include any disputed matter within the scope of representation.	Watch	Vetoed by the Governor

ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, ZONE 7
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ORIGINATING SECTION: ADMINISTRATIVE SERVICES
CONTACT: BONI BREWER/MIKE WALLACE

AGENDA DATE: October 15, 2014 ITEM NO. **18d**

SUBJECT: September Outreach Activities

Pleasanton Green Scene Fair, September 3rd

Zone 7 had a booth with activities and information on water conservation as well as stormwater pollution. This year's Green Scene event, co-hosted by Hacienda Business Park and the City of Pleasanton, was held in conjunction with downtown Pleasanton's First Wednesday Street Party and featured exhibitors specializing in practices to create a sustainable lifestyle.

Livermore Children's Fair, September 13th

This fun and informative event was sponsored by the Livermore Area Recreation and Park District. Zone 7's booth offered games and activities to teach children and their families more about water conservation and stormwater pollution prevention.

E-Newsletter, September 16th

The e-newsletter reminded readers to dial back their sprinklers to one day a week on October 1st. It also had articles on how Zone 7's financial reserves helped the Agency absorb drought-related revenue losses in 2014, and about the Agency's water banking programs that help provide drought protection.

Harvest Festival, September 19th-21st

Zone 7's booth during this event, held at the Alameda County Fairgrounds, offered activities and information on ways to conserve water and prevent stormwater pollution.

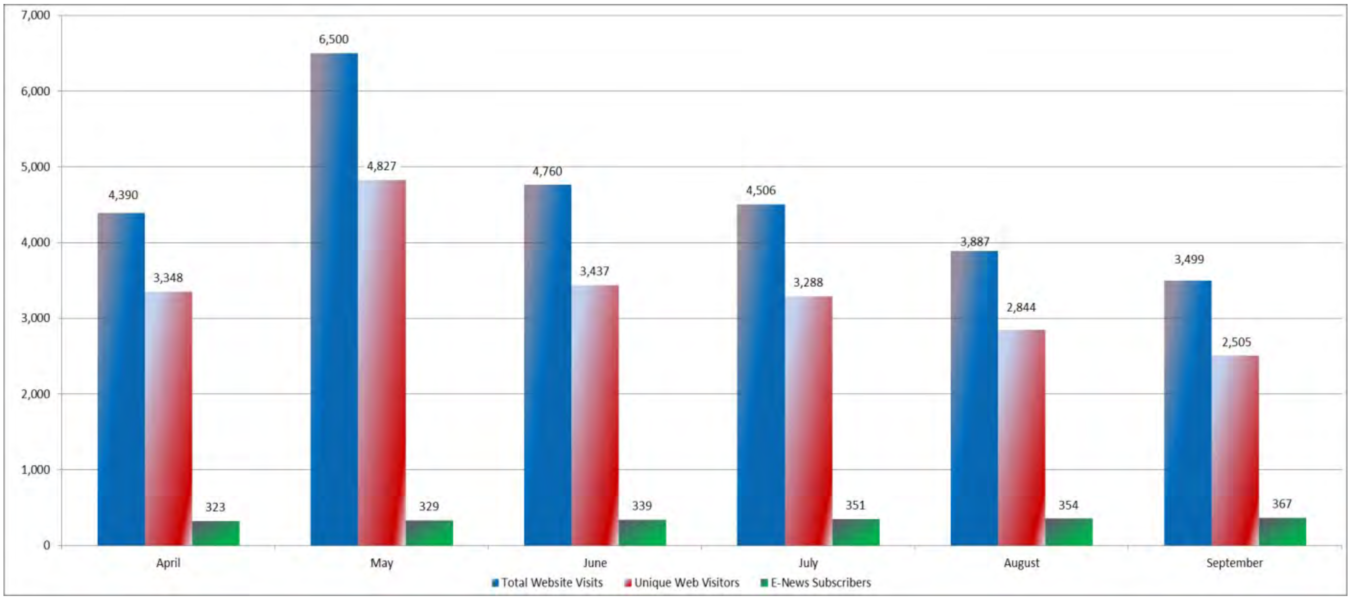
E-Newsletter, September 22nd

This e-newsletter announced Board support of the 2014 Water Bond and the Board's approval of the Tri-Valley Utilities Master Agreement. It also reminded Zone 7 service area customers to reset their sprinklers from 2 days maximum to 1 day maximum on October 1st and reduce to 0 days in December.

Newspaper advertisement on water rates, September 25th and 26th

Zone 7 took out quarter-page newspaper ads in September notifying the public of the October 1st and October 15th Board meetings at which water rates for 2015 and possibly 2016 would be discussed. Ads ran in The Independent, the Valley Times and the Valley Journal (for Dougherty Valley) on September 25th and in the Pleasanton Weekly on September 26th.

Website & E-news Subscription Activity



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ORIGINATING SECTION: Engineering
CONTACT: Rhett Alzona

AGENDA DATE: October 15, 2014

SUBJECT: Drought Update ITEM NO. **18e**

SUMMARY:

- DWR was able to maintain Lake Del Valle full throughout the summer. Since August 28 DWR has been releasing water from the lake into the South Bay Aqueduct to meet the Fall target elevation of 687.8' (30,000 AF) by October 22nd for flood control purposes.

- Although raw water TOC concentrations at the treatment plants have steadily dropped from approximately 4.7 mg/L to 4.0 mg/L over the last month, TOC levels are still above normal. Coagulant demand is much higher than normal to combat the TOC levels.

- Following is the status of the three emergency projects approved by the board on January 29th are moving forward.

    1. <u>Lake I - Cope Lake Pipeline Project</u> – Project is complete. Water from mining operations in Cope Lake is being transferred to Lake I for recharge to the groundwater basin. Further reports will not be provided on this project.
    2. <u>Chain of Lakes Well No. 5</u> – PG&E has provided electrical service at the site. Finalizing electrical, instrumentation and control systems to be able to perform functional testing of the well by October 20.
    3. <u>Busch Valley Well No. 1</u> – Zone 7 entered into a Progressive Design-Build contract with Conco West, Inc. (with Stantec as sub-consultant). The basis of design still needs some refinements, notably the site improvements for safe ingress/egress to Valley Avenue, the sodium hypochlorite facility layout, and potential for sewer connection. While the basis of the design is close to finished, with the focus on getting COL 5 operational, it is likely that the basis of design will not be finalized until November 2014.

- From an operational standpoint, staff used wells only as needed during September while optimizing surface water treatment given the limited SWP allocation. There were no groundwater recharge operations during the month. The Mocho Groundwater Demineralization Plant (MGDP) operation was limited to minimum reverse osmosis (RO) feed to maintain the membranes. Minimal MGDP use avoids discharge of the concentrate and minimizes water loss (waste stream is approximately 15% of the amount of groundwater pumped). Staff also continues to review water quality and minimum water supply needs.

- Beginning in September, Zone 7 is recovering increased supply from both Semitropic and Cawelo water banks. With current conservation levels, it is anticipated that there is more available than Zone 7 needs in 2014. Therefore, in preparation for another drought year in 2015, staff is working with DWR to store any excess water in Lake Oroville or San Luis Reservoir to make the water available to Zone 7 in 2015.

BACKGROUND:

Calendar Year 2013 was the driest year in recorded state history. 2013 also set a new record as the driest year measured in the Livermore-Amador Valley, with total precipitation of only 4.5 inches out of the average yearly rainfall of 14.47-inches (only 31% of average at Livermore Station 15e). At the beginning of 2014, the snowpack's statewide water content was estimated at about 20% of average for this time of year and January set a record for being the driest January in recorded history for the State and Bay Area.

On January 17, 2014, Governor Jerry Brown declared a State of Emergency in California due to the current drought conditions and asked all citizens to cut back water use by 20%. On January 29, 2014 at a Special Meeting of the Zone 7 Board, a Local Drought Emergency was declared and a Drought Emergency Response Plan was accepted. In addition, on January 31, 2014, the California Department of Water Resources (DWR) announced they were reducing State Water Project allocations from 5% to zero for the first time in history.

On January 29, 2014 the General Manager was authorized and directed to establish an appropriate level of conservation for the Livermore-Amador Valley, consistent with the governor's proclamation of a drought emergency (20% or greater). The initial conservation level was set at 20%.

On April 16th, the Zone 7 Board received the annual Sustainability Report and authorized the General Manager to implement Stage Two Actions under the 2010 Urban Water Management Plan to achieve 25% demand reductions. On April 25th, Governor Jerry Brown issued a second drought proclamation.

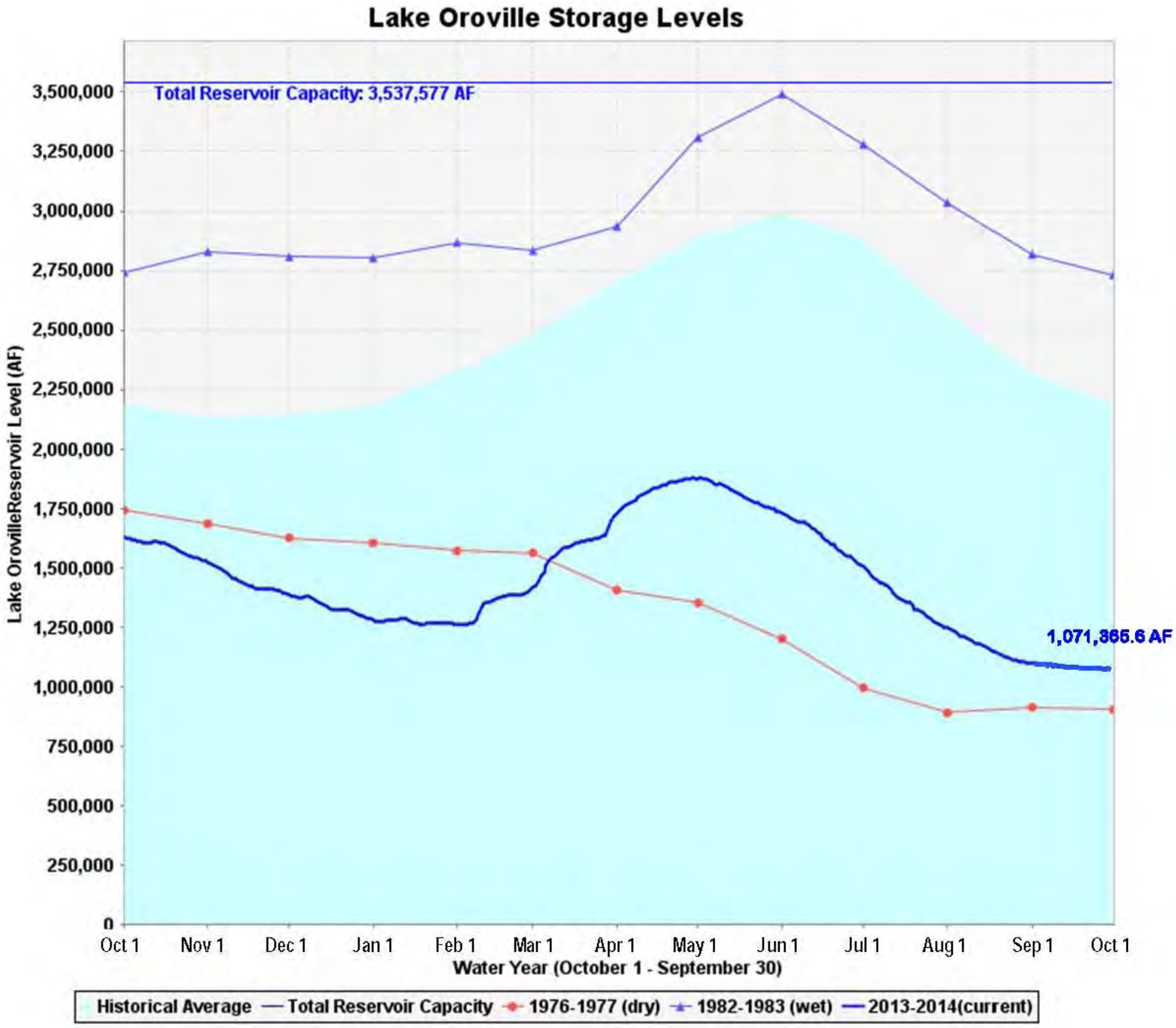
On July 29th, a State Water Resources Control Board emergency regulation to increase mandatory conservation practices for all Californians went into effect. The new conservation regulation targets outdoor urban water use and mandates conservation reporting by retail water agencies.

On August 14th, the California Public Utilities Commission ordered the water companies under its jurisdiction to provide notice to their customers of the July 29th emergency regulation.

DISCUSSION:

Storage in Lake Oroville began the water year well below average and well below the 1976-1977 critical dry year conditions at approximately 49% of the historic average (see Oroville graph, below).

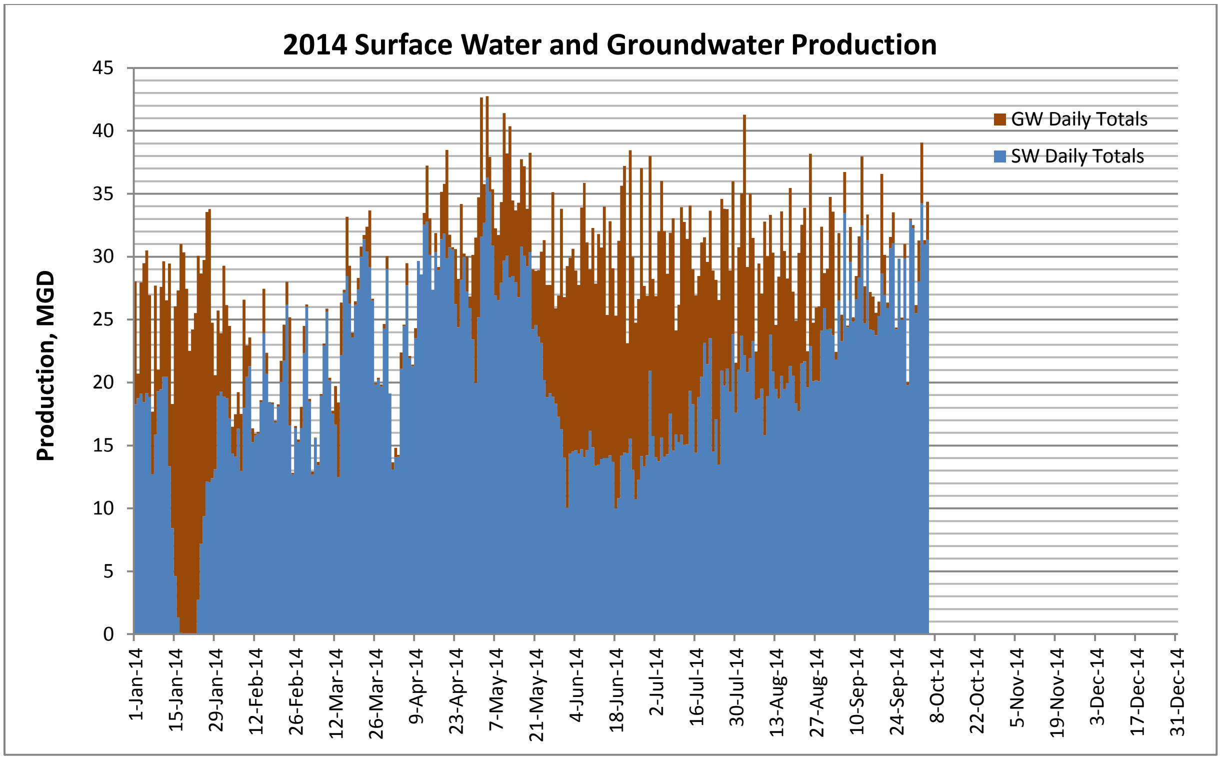
This can be tracked on the DWR data website at
http://cdec.water.ca.gov/cdecapp/resapp/resDetailOrig.action?resid=ORO

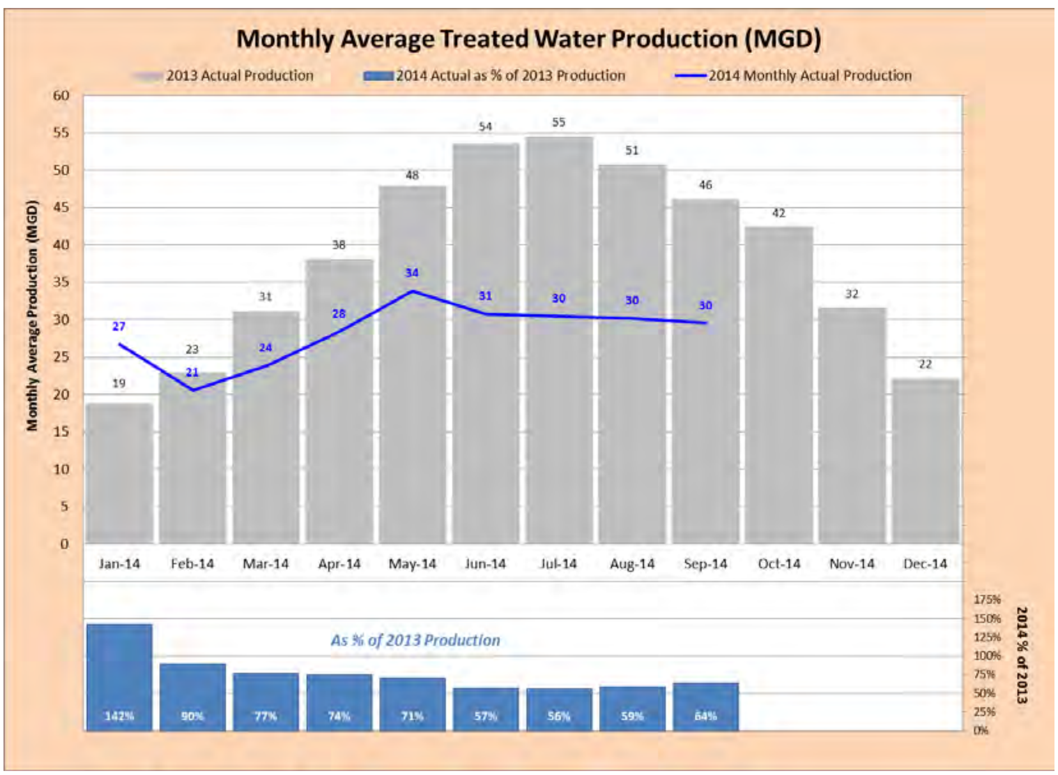


The local hydrology for the Water Year (October 1, 2013-September 30, 2014) ended at 44% of average conditions at 6.42 inches. This has minimized the amount of local water captured this year under the Arroyo Valle Water Rights permit.

From January to September 2014, cumulative valley-wide treated water demands from Zone 7 have been 30% below 2013 demands. Successful conservation efforts continued through September: the treated water production in September 2014 was 36% lower than September 2013, a difference of 1,530 AF.

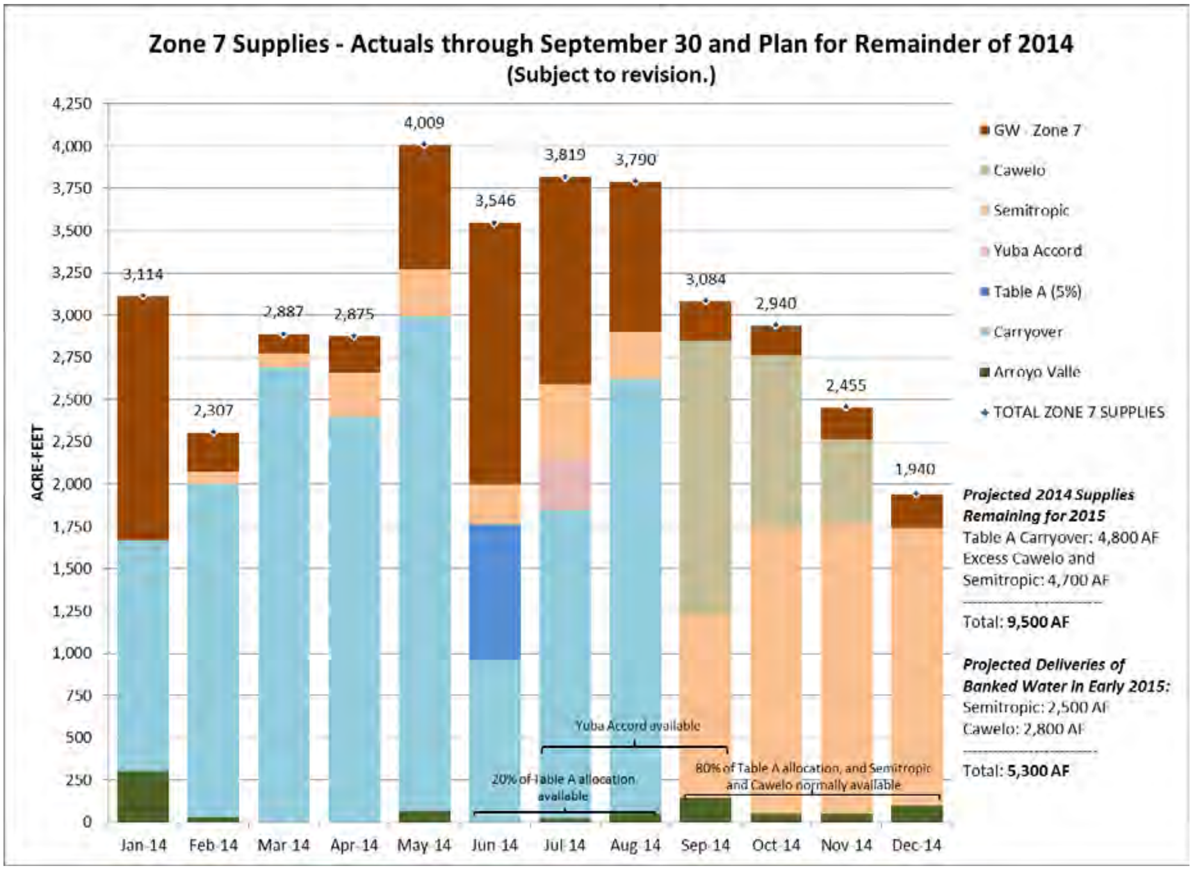
In September, surface water production was significantly ramped up with the increased water deliveries from the SWP of recovered banked water from Semitropic Water Storage District and Cawelo Water District. Del Valle Water Treatment Plant and the Patterson Pass Treatment Plant produced an average of 27 million gallons per day (MGD). Production wells met approximately 10% of September demands. Total average production in September 2014 was 30 MGD, as compared to 46 MGD in September 2013.





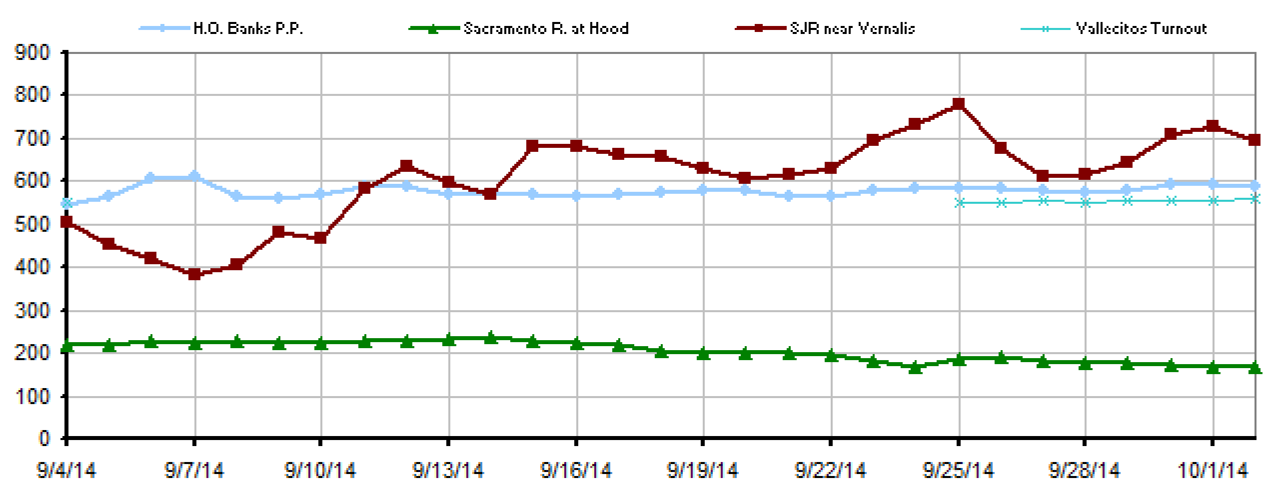
The graph below shows Zone 7's actual use of water supplies through September 30 and planned use for the remainder of the year. This graph is regularly updated to reflect additional information received from DWR, Zone 7's banking partners, and actual demands. This year, Semitropic was able to pump some water for Zone 7 during the summer months; pumpback water is typically not available during the peak irrigation months of June, July, and August. Semitropic and Cawelo deliveries will cover much of the projected water use this fall. Zone 7 is preparing for another drought year in 2015. Under this latest plan, there would be 4,800 AF of SWP carryover stored in San Luis Reservoir as Zone 7 enters into 2015 (carryover from 2013 +

unused Table A allocation this year). Excess water pumped by Cawelo and Semitropic this fall would also be "backed up" in San Luis Reservoir; this would provide another 4,700 AF for use in 2015. Semitropic and Cawelo are also expected to recover 5,300 AF of banked water for Zone 7 in January and February 2015, which could be directly used to meet demands in those months. Staff will continue to work with Cawelo, Semitropic, DWR, and other SWP contractors to ensure deliveries of banked water this fall and into next year.



DWR monitors electrical conductivity as a surrogate for TDS (TDS is approximately equal to 0.58 times EC), which is posted as part of DWR's "Real Time Data and Forecasting" effort on the DWR website at http://www.water.ca.gov/waterquality/drinkingwater/rtdf_rprt.cfm:

Electrical Conductance (µS/cm)



Based on the DWR data, raw water to the treatment plants has total dissolved solids (TDS) around 325 mg/L. Typical TDS levels around this time of year are between 250 mg/L and 300 mg/L.

Higher TOC levels continue to impact treatment at the plants with higher ferric chloride dosages and more pH adjustments. However, ferric chloride dosages are around 35 to 40 mg/L through the first week in October, down from 50 to 55 mg/L in September. In the past, Zone 7 treatment plants have operated with ferric chloride dosages in the neighborhood of 25 mg/L.