

Bighorn-Desert View Water Agency

Board of Directors

Terry Burkhart, President
J. Larry Coulombe, Vice President
Michael McBride, Director
David Larson, Director
Judy Corl-Lorono, Director



Agency Office
622 S. Jemez Trail
Yucca Valley, CA 92284-1440

760/364-2315 Phone
760/364-3412 Fax

Marina D West, P.G., General Manager

www.bdvwa.org

A Public Agency

THE BOARD OF DIRECTORS PLANNING/LEGISLATIVE/ENGINEERING GRANT & SECURITY COMMITTEE MEETING AGENDA

BOARD MEETING OFFICE
1720 N. Cherokee Trail, Landers, CA 92285
Thursday, December 16, 2010 - 8:45 AM

The BDVWA Planning / Legislative / Engineering / Grant & Security Committee meeting is announced as a joint meeting with the Board of Directors for the purpose of strict compliance with the Brown Act. Members of the Board not assigned to this Committee who attend will participate only as observers at the meeting.

- **CALL TO ORDER**
- **PLEDGE OF ALLEGIANCE**
- **ROLL CALL**
- **APPROVAL OF THE AGENDA**

Public Participation - Public is invited to comment on any item on the agenda during discussion of that item. You may wish to submit your comments in writing to assure that you are able to express yourself adequately. When giving your public comment, please first state your name and have your information prepared. Due to time constraints, a three-minute time limit may be imposed. Per Government Code Section 54954.2, any person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in the meeting, should contact the Board Secretary at 760-364-2315 during Agency business hours.

- 1. PUBLIC PARTICIPATION** - Any person may address the Board on any matter within the District's jurisdiction on items not appearing on this agenda.
- 2. CONFERENCE CALL WITH MOJAVE WATER AGENCY'S LEGAL/LEGISLATIVE AND PUBLIC INFORMATION COMMITTEE** -

Committee to participate via teleconference for an update by the State Advocate of Issues at the State Level, as well as an update by the Federal Advocate of Issues at the Federal Level.

- 3. DISCUSSION AND ACTION ITEMS** - The Committee and Staff will discuss the following items and consider taking action, if so inclined.

a. PURSUANT TO JOHNSON VALLEY WATER SUPPLY SURVEY: REVIEW TASK LIST RELATED TO PRELIMINARY ENGINEERING EVALUATION FOR THE DEVELOPMENT OF A PRESSURIZED DISTRIBUTION SYSTEM

RECOMMENDED ACTION:

- 1) District Engineer to discuss list of tasks and decision points related to preliminary engineering evaluation for the development of a pressurized water distribution system to serve residents of Bighorn Desert View Water Agency including the area known as "Johnson Valley"; and
- 2) Provide feedback to staff on the tasks and decision points.

b. CONSIDER ADOPTION OF A WATER SUPPLY ASSESSMENT AND SUBSEQUENT ISSUANCE OF A WILL SERVE LETTER TO HAHM INTERNATIONAL, INC.

RECOMMENDED ACTION:

- 1) Discuss the draft *Water Supply Assessment for the Proposed Morris Lode Mine*, dated November 24, 2010; and
- 2) Discuss draft Will Serve Letter to be issued to Hahm International based on the adequacy of the Water Supply Assessment; and
- 3) Direct staff to move the item to the full board for further consideration to accept Water Supply Assessment, concur that there is an adequate supply of water for the project based on the Water Supply Assessment and authorize issuance of a Will Serve Letter to Hahm International for the proposed Morris Lode Mine project.

c. UPDATE ON "CONSUMPTION VS PRODUCTION" WATER ACCOUNTING

RECOMMENDED ACTION:

- 1) District Engineer to review methodology and progress their analysis of "Consumption vs. Production" water accounting for the Agency.

d. WATER INFRASTRUCTURE RESTORATION PROGRAM/EPA STAG GRANT: CORRECTIONS TO TODD ENGINEERS PROFESSIONAL SERVICE AGREEMENT CHANGE ORDER NO. 1 AND CHANGE ORDER NO. 2

RECOMMENDED ACTION:

- 1) Review discrepancy between Todd Engineers Change Order No. 1 and actual Board motions to staff on January 26, 2010. Board action did not specifically authorize \$7,425 in legal assistance as part of Task 4.2 under the Change Order as intended; and

- 2) Review discrepancy between Todd Engineers Change Order No. 2 and actual Board motions to staff on October 25, 2010. Funding approval exceeded request by \$1,806.95 with this action resulting in a reduction to the total Contract amount.
- 3) Direct staff to move the item to the full board for further consideration and approval to correct the discrepancies.

e. WATER INFRASTRUCTURE RESTORATION PROGRAM CHANGE ORDER NO. 4 TO CANDIDA NEAL, AICP FOR NEPA BIOLOGICAL MONITORING AND ENVIRONMENTAL REVIEW SERVICES

RECOMMENDED ACTION:

- 1) Review Change Order No. 4 related to NEPA biological monitoring and environmental review services in the amount of \$8,350; and
- 2) Direct staff to move the item to the full board for further consideration and approval of Change Order No. 4.

f. WATER INFRASTRUCTURE RESTORATION PROGRAM CHANGE ORDER NO. 5 TO CANDIDA NEAL, AICP FOR PROCESSING OF SECTION 2081 "INCIDENTAL TAKE PERMIT" FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME FOR THE AMES/RECHE SPREADING GROUNDS PROJECT

RECOMMENDED ACTION:

- 1) Review Change Order No. 5 in the amount of \$8,250 for acquisition of a Section 2081 "Incidental Take Permit" for the desert tortoise from the California Department of Fish and Game and any permits deemed necessary by the San Bernardino County Development Code for the Ames/Reche Spreading Grounds Project; and
- 2) Direct staff to move the item to the full board for further consideration and approval of Change Order No. 5.

4. VERBAL REPORTS

- > COMMITTEE MEMBERS' COMMENTS/REPORTS
- > GENERAL MANAGER'S REPORT

5. ITEMS FOR NEXT AGENDA

6. ADJOURNMENT

In accordance with the requirements of California Government Code Section 54954.2, this agenda has been posted in the main lobby of the Bighorn-Desert View Water Agency, 622 S. Jemez Trail, Yucca Valley, CA not less than 72 hours prior to the meeting date and time above. All written materials relating to each agenda item are available for public inspection in the office of the Agency Secretary. Backup material for the Agenda is available at the Agency offices for public review and can be viewed online at the Agency's website: www.bdvwa.org.

As a general rule, agenda reports or other written documentation has been prepared or organized with respect to each item of business listed on the agenda, and can be reviewed at www.bdvwa.org. Copies of these materials and other discloseable public records distributed to all or a majority of the members of the Board of Directors in connection with an open session agenda item are also on file with and available for inspection at the Office of the Agency Secretary, 622 S. Jemez Trail, Yucca Valley, California, during regular business hours, 8:00 A.M. to 4:30 P.M., Monday through Friday. If such writings are distributed to members of the Board of Directors on the day of a Board meeting, the writings will be available at the entrance to the Board of Directors meeting room at the Bighorn-Desert View Water Agency.



**LEGAL/LEGISLATIVE AND
PUBLIC INFORMATION
COMMITTEE MEETING**

AGENDA

**Mojave Water Agency
Board Room
22450 Headquarters Drive
Apple Valley CA 92307**

**December 16, 2010
9:00 a.m.**

NO ACTION WILL BE TAKEN – STUDY SESSION ONLY

1. Agenda
2. Meeting Summary from the Legal/Legislative and Public Information Committee Meeting of November 17, 2010
3. Update on State Advocate and Issues at the State Level (teleconference)
4. Update on Federal Advocate and Issues at the Federal Level (teleconference)
5. Public Information Update (oral report)
6. General Manager's Report (oral report)
7. Public Participation
8. Comments/Discussion Items for Next or Future Agendas
9. Adjournment

Pursuant to Government Code Section 54954.2(a), any request for a disability-related modification or accommodation, including auxiliary aids or services, that is sought in order to participate in the above-agendized public meeting, should be directed to the Agency's General Manager's office at (760) 946-7008 at least 24 hours prior to said meeting.



LEGAL/LEGISLATIVE AND PUBLIC INFORMATION COMMITTEE MEETING

APPROVED MEETING SUMMARY NOVEMBER 17, 2010

CALL TO ORDER:

Chairperson Art Bishop called the meeting to order at 9:00 a.m.

ATTENDANCE:

- ✦ Committee - Chairperson Art Bishop, Director Beverly Lowry, and Director Doug Shumway
- ✦ Absent - None
- ✦ Staff - General Manager Kirby Brill; Community Liaison Officer Michael Stevens; and Senior Administrative Assistant, Public Information Gloria Golike
- ✦ Consultants - Federal Advocate Heather Hennessey, Innovative Federal Strategies, LLC joined by teleconference
- ✦ Others - Three visitors were in the audience and six online participants

1. **Agenda**

Summary: The agenda was agreed upon by the Committee.

2. **Meeting Summary from the Legal/Legislative and Public Information Committee Meeting of October 20, 2010**

Summary: The meeting summary of the October 20, 2010 meeting was agreed upon as submitted.

3. **Update on State Advocate and Issues at the State Level**

There was no report by the advocate; however, there was a brief discussion on the state election results.

Summary: Informational purposes only.

4. **Update on Federal Advocate and Issues at the Federal Level**

Ms. Hennessey mentioned there has been a lot of activity on Capitol Hill. She mentioned there are several initiatives that Congress needs to take action on, which were not handled earlier due to the November election. She stated that Congress is now electing new leadership and is in the reorganization process. She spoke briefly about on-going

negotiations that are occurring. She also commented on some possible alterations due to the change in Republican majority leadership.

Summary: *Informational purposes only.*

5. **Public Information Update**
Mr. Stevens mentioned that the November E-Newsletter was recently distributed. He also reported on recent events, such as the Special Districts Dinner, Newly Elected Officials Orientation, Facility Mini Tour, ABC's of Water, among others.
6. **General Manager's Report**
No report.
7. **Public Participation**
Ms. Lee Dorgan, a resident of Oro Grande, commented about the use of grey water.
8. **Comments/Discussion Items for Next or Future Agenda**
None noted.
9. **Adjournment**
Chairperson Bishop adjourned the meeting at 10:10 a.m.

Submitted by: _____
Gloria Golike
Senior Administrative Assistant,
Public Information

Attachments on-file:

Item No. 5 – Past Speakers for MWA Hosted Special Districts Dinners
Item No. 5 – Past Topics for ABC's of Water Sessions
Item No. 5 – Handout Regarding the Annual SANBAG Survey
Item No. 5 – Handout Listing Methods of MWA Achievements
Item No. 5 – Proposal for Community Ride-Along
Sign-in sheet

**Audio recording of this meeting available upon request.*



PUBLIC AFFAIRS

To: KP Clients
From: KP Public Affairs
Re: California Election Recap and Analysis – November 2010

Republican Tidal Wave Stops at California's Border

As expected the wave of Republican election success mostly stopped at California's border. Despite national sentiment against the Democratic establishment, nearly all new statewide races have been won by Democrats. Barbara Boxer was also able to win her US Senate race against Carly Fiorina.

The election results can be summarized by the following general statements:

1. Governor-elect Jerry Brown won handily, but he won on personality and character issues rather than an agenda that the public embraced.
2. Whitman's fading in the last two weeks combined with the failure of the down-ticket Republicans to make the case for a philosophical change allowed Democrats to continue to hold all major political offices in the state (the Attorney General race still to be decided).
3. Despite the lowest ever approval ratings, Democrats held their own in the State Legislature. The Senate Democrats held several contested seats, though they missed an opportunity to pick up two seats that they had hoped to capture from Republicans (one of these contested seats was held by Republicans in a special election several months ago). Assembly Democrats defended their two hotly contested seats and gained an additional seat from the Republicans.
4. The public distrust for Sacramento was evident in their overwhelming desire for an independent reapportionment process.
5. The anti-Sacramento theme played out in many other statewide propositions, where the public rejected proposals to spend money, limited Sacramento's ability to impose taxes, and approved a process that would punish the Legislature for not passing a budget on time.

Statewide Constitutional Offices

Governor- Jerry Brown (D) defeated Meg Whitman (R) with 53.8% of the vote to 41.2%. Throughout Jerry Brown's campaign he has focused on jobs, fixing the budget, sending more resources towards education, fixing the water crisis and protecting the environment. Brown's plans were short on the detail but below are some of the areas he highlighted:

- Brown has focused on the need to heavily invest in green jobs and the green economy so it is likely that we will continue to see a strong environmental tilt from the Governor's Administration. Specifically, he will likely push aggressively to

increase the mandate on utilities to procure more alternative energy resources such as solar and wind.

- Brown has said he will not raise taxes without voter approval so it is believed that we will see the Governor head to the campaign trail if attempting to raise taxes.
- Brown has highlighted that California's infrastructure, including new water conveyance, must be upgraded, and he wants to revive the construction industry.
- While Prop 25 succeeded and gave Democrats significant budget leverage, the passage of Prop 26 will make it more difficult for Democrats to access funding sources such as fees and taxes through the Legislature. This will make the budget process even more challenging for the new Administration.

Implications: Brown will not be predictable in his approach to the state's economic, budget and fiscal problems. He has already indicated that reductions in state programs will be necessary to balance the budget and that taxes would need to be approved by the public. His past governing style would indicate that cabinet secretaries, commissioners and other appointed officials will have broad authority to implement programs while the Governor's office sets priorities and develops major initiatives.

Lieutenant Governor- Gavin Newsom (D) defeated Abel Maldonado (R) with 50.2% of the vote to Maldonado's 39.4%. The Lt. Governor's office is generally regarded as a ceremonial office without much power. During his campaign Newsom suggested that he will focus on the following issues:

- Jobs and the economy: Newsom says he will focus on the emerging green economy and the environment to get California's economy back on track.
- Education and tuition: Newsom said he will use his seat on the Board of Regents to ensure that the tuition costs at California's universities are limited.

Implications: The Lt. Governor can wield his power through his role on several boards and commissions such as the UC Board of Regents, the CSU Board of Trustees, the Ocean Protection Council, the California Emergency Council, and the State Lands Commission. Also, the Lt. Governor is in charge of the Commission for Economic Development in California. As Mayor of San Francisco, Newsom took very bold action on health care, environmental regulation and social issues; we can expect that he will continue his activism in these areas nudging Governor Brown to take a more liberal approach.

Attorney General- Kamala Harris (D) or Steve Cooley (R) - The California Attorney General's duty is to ensure that "the laws of the state are uniformly and adequately enforced". The Attorney General (AG) carries out the responsibilities of the office through the California Department of Justice. The AG's office also drafts the title and summary of propositions which has significant weight on the ballot box. At this time, the race is still too close to call.

If Steve Cooley wins we can expect to see:

- Cooley understands the power his office can wield over laws that affect business and the economy.
- Title and summary for ballot initiatives will be much more business friendly than previous administrations.

- He will likely take more aggressive positions on traditional law enforcement matters.

If Kamala Harris wins we can expect to see:

- We will continue to see a liberal tilt to the Attorney General's office.
- She will use her power to protect environmental issues.
- Title and summary for ballot initiatives will be less business friendly.

Implications: Cooley will run his office more like a prosecutor focusing on law enforcement and carrying out the duties of the Attorney General as the State's legal representative. Harris will be much more political, using her office to further the legal and social agenda of her liberal supporters. You can expect lawsuits against corporations on anti-trust issues, consumer protection, workplace safety and hiring practices and environmental violations. Where the Brown Administration will need a balanced approach, Harris will be aggressive in using her authority to further liberal causes.

Treasurer- Bill Lockyer (D) defeated Mimi Walters (R) with 56.6% of the vote to Walters' 36.3%. In California, the Treasurer is responsible for the state's investments and finance. The Treasurer serves as ex officio trustee of CalPERS and CalSTRS. Bill Lockyer was the incumbent in this seat and we can expect to see much the same from his previous term. He has continually fought to clean up the CalPERS and CalSTRS processes including limiting placement agents. One area of concern is CalPERS engagement in social politics that drives their investment strategies. This is an emerging trend which Lockyer has encouraged. Throughout his campaign Lockyer promised to:

- Continue to make smart investments that protect Californians.
- Continue to fight the Wall Street interests that have lost the state billions of dollars.

Implications: With years of service and no higher office in sight, Lockyer has become the wise elder statesman, encouraging the Democratic leadership to come to terms with the current economic situation. If he aligns himself with Brown on major policy issues, it will be difficult for the Democratic Legislative leadership to continue to adhere to the status quo.

Controller- John Chiang (D) defeated Tony Strickland (R) with 55.1% of the vote to Strickland's 36.3%. As the Chief Financial Officer of the State of California, Chiang (the incumbent) has broader responsibilities and authority than the California State Treasurer. His responsibilities include investigative authority for every dollar spent by the state, and being an ex-officio member of the state's Board of Equalization. Based on his campaign we can expect:

- Chiang has been outspoken against corporate tax loopholes when the state needs revenue.
- Chiang will continue to advocate for balanced budgets passed on time.
- Chiang will continue to fight to rid California budgets of fraud and abuse.

Insurance Commissioner- Dave Jones (D) defeated Mike Villines (R) with 50.7% of the vote to Villines' 37.7%. Dave Jones will assume the position previously held by Republican Steve Poizner so we can expect to see a significant change in leadership direction under Dave Jones. The Insurance Commissioner will have an increasingly important role as this office will be the main implementing agency of the Federal Health Care Reform. Throughout his campaign he has highlighted several areas that he plans to focus on:

- Will ensure the insurance industry does not take advantage of consumers.
- Will use the full power of the office to make sure that insurance rates are affordable.
- Will push an environmental agenda including establishing environmental standards and protections in the insurance business. He will also work to provide incentives for offering green insurance and making green investments.

Implications: Jones has been one of the most liberal members of the Legislature and will be an activist on behalf of the trial lawyers and against the insurance industry. Given his record in the Assembly, the insurance industry can expect numerous investigations and enforcement actions challenging the rates and policy coverage.

California State Legislature

The high Democratic turnout was the difference in the election. The 2008 Obama enthusiasm changed the make-up of the state Legislature in California, and the 2010 results have sustained the power and shifted it even slightly more in favor of Democrats. But while the make-up of the Legislature stayed relatively the same this year, major changes will come about in the next election due to reapportionment and the open primary process. Both Democrats and Republicans will not know the make-up of their future districts, which could impact their voting. Some members may be inclined to vote consistently with the philosophy of the party majority. Other members may decide to take a more moderate approach with the expectation that their district will be more moderate and not supportive of the far left or right approach.

California State Senate

The make-up of the State Senate did not have any major movements. Currently, there are 24 Democrats and 13 Republicans with three seats vacant (or soon to be vacant). The Republicans were able to hold on to the targeted 12th Senate District, with Republican Anthony Cannella defeating Democratic Anna Caballero.

We are expecting three special elections in the California State Senate:

1. Senate District 1- Cooley (D) vs. Gaines (R) - Scheduled for January 4, 2011. (Special election for the recently deceased Republican Dave Cox.) This is a heavily Republican District (43% Republican to 33% Democratic) which Gaines should win easily.
2. Senate District 28- Special election for recently deceased Democrat Jenny Oropeza, the election date to fill the vacant seat will be called next month. The district is 48% Democrat and 25% Republican. Assemblymembers Lieu, De La Torre and Furutani represent most of the district.
3. Senate District 17- Current seat holder is George Runner (R) who was elected to the Board of Equalization. A special election will be called next month. Assembly Members Knight and Smyth represent parts of the district.

Implications: The breakdown of Democrats to Republicans will stay largely the same, but the caucuses will be much different. Republicans are united behind Senator Dutton. By nature, the leadership of the Democratic Caucus is always more challenging and the budget situation will make Senator Steinberg's job even more difficult. Furthermore, the Senate Democratic Caucus

may potentially become more moderate with the election of Juan Vargas (SD 40) and Michael Rubio (SD 16) and the return of moderates such as Ron Calderon (SD 30) and Lou Correa (SD 34).

California State Assembly

The new breakdown of the State Assembly is 52 Democrats and 28 Republicans. The Democrats were able to hold two very important seats, AD-10 held by Assemblywoman Alyson Huber and AD-15 held by Joan Buchanan. In addition the Democrats were able to gain a long standing Republican seat, AD-5, won by Richard Pan. The Republicans' win was holding on to the targeted AD-30, with Republican David Valadao defeating Democratic Fran Florez.

The new breakdown in the state Assembly has positioned the Democrats well; they are two votes away from holding 2/3 of the vote needed to raise taxes or fees.

Implications: With a pick-up of one seat in the Assembly, the Democratic leadership solidified its position and will be very close to gaining a 2/3 majority that could pass new taxes. Given the make-up of the districts and the difficulty in winning seats, the Assembly Republican leadership is always under pressure and has very little political or institutional power to leverage on behalf of their supporters. Minority Leader Garrick stepped down, and Assemblywoman Connie Conway was unanimously elected leader by the caucus's 28 members on Thursday Nov. 4.

Ballot Propositions

As John Myers states in Capital Notes, "The voters told California lawmakers that it's easier to pass a budget, harder to raise revenues through fees, harder to redistribute tax dollars between local and state government, harder to fund state parks, and important to offer businesses tax breaks. Huh?" The ballot was definitely crowded with propositions that were confusing to voters but will bring major changes to Sacramento operations.

Overall voters used the propositions to essentially attack Sacramento legislators. They supported redistricting, and with Prop 22, supported keeping funding at the local level where possible rather than at the state level. Voters made it more difficult for the Legislature to institute new fees to ease the budget pain, and they passed Prop 25 which was widely viewed as a measure to force politicians to pass an on-time budget and lose their pay for missing deadlines.

Moving forward, Democrats will now have an easier time passing a budget without Republican votes, but will have a harder time imposing new fees and revenue measures. The state budget deficit will continue to be very large for many years to come – meaning that Democrats will be forced to take responsibility for either more deep cuts, or convince Republicans to support more painful tax or fee increases in the midst of the ongoing economic slump.

Prop 19 – Legalization & Taxation of Marijuana

FAILS 46.2 to 53.8%

This measure to legalize personal use of marijuana was defeated. Medicinal marijuana use remains legal.

Prop 20 – Congressional Redistricting**PASSES 61.2 to 38.3%**

This measure will extend the authority of the redistricting commission to include congressional districts. Prop 11 in 2008 was passed by voters to take away the power of drawing district lines by legislators and put it in the hands of an independent commission. The intention was to redraw the district lines and to stop the practice of gerrymandering. The passage of Prop 20 means that the redistricting commission will do the same at the federal level. Ultimately, supporters believe that redistricting will result in the election of more moderate officials, and will make more seats competitive for turnover between Democratic and Republican hands.

Prop 21 – State Park Funding**FAILS 42 to 58%**

This measure would have imposed an \$18 annual fee on car registrations to support state parks. Proponents hoped to ease the budget deficit by shifting this parks cost out of the General Fund. However, its failure means that state parks must continue to be funded by the state General Fund, offering no help for the ongoing budget deficit.

Prop 22 – State Prohibition on Taking Local Funds**PASSES 60.9 to 39.1%**

This will make it much more difficult for the state Legislature to use the borrowing of local funds as a tool to balance the state budget. More and more frequently the Legislature has been turning to cities, counties, special districts and redevelopment agencies for money to balance the state's budget books. But the local funds are intended for transportation, redevelopment or local government projects and services. This money will be protected now – the state cannot borrow it for budget purposes and cannot delay distribution of the money to local jurisdictions even during severe fiscal hardship. The League of California Cities, the California Transit Association, the California Alliance for Jobs and the California Redevelopment Association were the measure's main proponents.

Prop 23 – Repeal of Air Pollution Law (AB 32)**FAILS 38.7 to 61.3%**

Prop 23 would have suspended California's climate change program – and it failed by a large margin. The cleantech companies in the state were opposed to the measure and many made it a top priority to defeat it. They said the measure would slow down investment in the renewable and cleantech sectors. Proponents said the measure would help save jobs and keep costs lower. AB 32 is Gov. Schwarzenegger's main legacy. Governor-elect Jerry Brown shows similar support for encouraging investment and innovation in the cleantech area – he issued a plan calling for the installation of 20,000 megawatts of new renewable energy by 2020, with a projected 500,000 new "green" jobs.

Prop 24 – Business Tax Repeals**FAILS 41.6 to 58.4%**

Prop 24 would have repealed three tax provisions that were passed as part of the 2008 and 2009 budget deals – the provisions were the single sales factor tax formula, net operating loss (carry-back of two years, and extending carry-forward to 20 years), and unitary credit sharing. The provisions were intended to encourage economic growth and job creation. The California Teachers Association sponsored Prop 24 to secure a short term inflow of \$1.3 billion to the General Fund, but economic impact studies showed that the tax provisions will result in greater economic activity and tax revenue in the long term, and repeal of these measures would result in substantial job losses.

Prop 25 – Simple Majority Budget Approval**PASSES 55 to 45%**

This measure will make it easier to pass a budget by reducing the vote threshold from 2/3 to a simple majority. This measure had strong backing from the labor unions that are eager to have the Democrats control the budget process. This will eliminate the ability of Republican legislators to use the budget process and leverage budget votes in exchange for Democratic concessions of favored Republican issues. While the measure may result in faster budget adoption and get rid of the annual gridlock, it takes away significant power from the minority party. In recent history, most Republican legislative wins have occurred as budget deals rather than through the general legislative session.

Prop 26 – 2/3 Vote for Some State/Local Fees**PASSES 52.7 to 47.3%**

This measure will raise the threshold of approval of many state and local fees to a 2/3 vote. This will cause an interesting interaction with Prop 25. Although the passage of Prop 25 will make it easier to pass budgets, Prop 26 will make it more difficult for the Legislature to raise new fees and revenues.

Prop 27 – State Redistricting Commission Elimination**FAILS 40.6 to 59.4%**

With Prop 11 in 2008, voters approved creating an independent commission to control boundaries for state legislative districts. Opponents of that commission put Prop 27 on the ballot, but the measure's failure means that the independent commission system will move forward. Proponents of Prop 27 argued that general citizens are not qualified to draw district lines, and there was fear that redistricting would result in Republican political gains across the state.

Implications: The clear message from the voting on the propositions is that the public does not trust Sacramento and wants to curtail the power of the Legislature to raise more taxes or fees for programs that are not being implemented properly. The public voted for a majority vote budget but also voted to penalize the Legislature for not producing a budget on time. The electorate stripped the Legislature of all of its authority for reapportionment. Even though the public voted to keep the status quo in terms of the Democratic Party dominance, the voting on the propositions shows the frustration with business as usual.

With Governor-elect Brown making it clear that he won't immediately pursue tax increases, the only budget solution left is more cutting of state programs. That choice will infuriate labor and the Democratic supporters of Governor-elect Brown. Another option is to basically rearrange government spending and send dollars and responsibility to the local level. As a former mayor, Brown may find this solution more defensible from a policy and political standpoint.

Summary

The final observation about the election is that we are in an era of political uncertainty. The Governor is a maverick who has a healthy disregard for conventional and relationship advocacy. The Legislature is serving districts that they will not represent in two years so they will be looking ahead to adjust their voting for future elections. Now, more than ever, success in the Legislature will depend on the ability to master the policy arguments in combination with shaping the broader political environment.

Delta plan churns up concerns

mweiser@sacbee.com

Published Friday, Nov. 19, 2010

In a glassy conference room alongside a Sacramento River levee, a committee of 25 people struggled Thursday to do what Californians have never been able to do before: reach agreement on how to drink from the Delta without killing it.

After meeting for four years and spending \$140 million, the committee drafting the Bay Delta Conservation Plan aimed Thursday to complete a "Nov. 18 draft" of its progress so far. This odd name for the document reflects the enormous stakes in crafting a plan that meets two goals: restoring the Sacramento-San Joaquin Delta ecosystem and building a pair of tunnels or canal to ferry its water elsewhere.

It is not the final draft that water agencies and the Schwarzenegger administration wanted by this date, nor even the "working draft" they were prepared to settle for. It is enough of a draft, however, to keep environmental groups and Delta residents in the room.

"It is a snapshot in time on where we've gotten to date," said Karen Scarborough, undersecretary of the state's Natural Resources Agency and chair of the steering committee. "We are not at the top yet, but we are at a very broad, stable ledge."

The multibillion-dollar plan may be teetering on the brink of that ledge, however, after developments over the last two weeks.

At a meeting last week in Washington, D.C., representatives of the Westlands Water District, a huge irrigation agency in the San Joaquin Valley, reportedly stormed out of a meeting with David Hayes, an Interior Department undersecretary. Other meeting participants told The Bee the trigger was a discussion that the plan may include reduced water deliveries.

And at a meeting in Los Banos on Wednesday, a number of federal water contractors were ready to withdraw funding to continue the conservation plan, said Brett Baker, a lobbyist for the Central Delta Water Agency who was there. The group plans to consider the motion again next week, he said.

"It's just, in my opinion, not going very well," Jason Peltier, a Westlands representative, told an Assembly oversight hearing on the Delta on Tuesday.

"There's going to need to be some kind of a reset – some kind of a come to Jesus – about how all our interests can be met, or not met, and tell people they're not going to get what they had been hoping for," he said.

The plan's goal is to protect freshwater exports while also restoring Delta habitat. Seven fish species in the Delta, the West's largest estuary, have been driven to the brink of extinction by demand for its water, which serves 25 million Californians and 3 million acres of farmland. Invasive species, water pollution and habitat loss have also contributed.

The centerpiece of the conservation plan is a tunnel system or canal to divert Sacramento River water out of the estuary and deliver it directly to export canals near Tracy. In addition, more than 115,000 acres of restored habitat would help wildlife rebound.

The project is unprecedented in California and perhaps the nation. The tunnels option would cost \$12.7 billion, while the canal would cost \$8.4 billion.

Habitat projects would add about \$4 billion more to either option.

Completion of the Nov. 18 draft marks an important milestone. But numerous political and economic obstacles loom, and the question now is whether the project is on a path to construction or veering toward a bureaucratic dustbin.

It came under attack by some committee members who objected to calling the draft "finished," as Scarborough's agency did in a press release on Tuesday.

That's because, while the draft is the most complete so far, it leaves enormous holes. One is a lack of substantive analysis of how water diversions into a new canal or tunnels will affect the Delta's aquatic environment.

Either design is large enough to divert the Sacramento River's entire flow under some conditions, and environmentalists and Delta residents are still waiting for language that would guarantee adequate river flows to protect habitat and water quality.

"I'm not feeling well," said Deanna Sereno, a committee member representing the Contra Costa Water District, which often finds itself allied with environmental groups because it draws drinking water directly from the Delta. "I'm really nervous about what we're finalizing here."

The committee plans to complete an official draft of the plan by July and an environmental impact study by October. Final approval is expected in late 2012 or early 2013. The plan would then have to be approved by state and federal wildlife agencies.

Whether all of this happens depends largely on two things: Gov.-elect Jerry Brown and economics.

Brown asserted in his campaign that he intends to see the plan through to completion of the environmental review process.

Money may be a bigger concern, and it is amplified by a growing realization that water agencies may not get as much Delta water from the project as they hoped. If deliveries are reduced, the economics make even less sense.

Innovative Federal Strategies_{LLC}

Comprehensive Government Relations

MEMORANDUM

To: Kirby Brill, Mike Stevens and Kathy Cortner, MWA

From: Letitia White and Heather Hennessey

Date: November 30, 2010

Re: November Monthly Legislative Update

The end of November brings us almost to the close of the 111th Congress but leaves us without resolution on some of the most important issues facing our country. November's historic election brought tremendous change to Washington. When the 112th Congress is sworn in this January, it will be a very different one from the current Congress! Republican control of the House will dramatically alter the legislative landscape.

After the elections, Congress returned to work for one week and resolved some leadership questions and organizational issues before recessing again for Thanksgiving. But they made no progress on the many outstanding taxation and spending issues, which remain at the top of the agenda and could keep lawmakers in Washington until Christmas! Between now and the end of the year, they will decide on committee leadership positions and attempt to approach the legislative challenges ahead.

Update on Spending for FY 2011 and the Earmark Ban

This morning the Senate voted against a proposed three-year moratorium on appropriations earmarks. The Senate amendment only garnered 39 votes and needed 67 to pass. If it had passed, it would have reshaped the year-end budget debate, forcing Democrats to alter their omnibus spending bill and strip out or weaken draft language that currently sets aside billions for home-state projects. The massive omnibus appropriations bill represents a serious bipartisan effort to reach a compromise by cutting up to \$26 billion from President Barack Obama's 2011 budget request. Republicans in the House are compiling a list of their own which will offer \$100 billion in proposed reductions to the President's 2011 budget.

Tomorrow, we expect that House Appropriations Chairman David Obey (D-WI) will introduce a two-week "clean" continuing resolution (CR) extension with a simple date change to December 18th. That would give lawmakers more time to decide whether to move ahead with another stopgap bill (CR) that would fund the government into or through the next year or proceed with a fiscal 2011 omnibus spending bill. We are told there will be no extraneous provisions included in this short term extension so as to prohibit the Republicans in the House from offering a motion to recommit and delay its passage.

The House has been focused on writing the long-term continuing resolution to cover government operations through next year, while the Senate is working on an omnibus that could be

Innovative Federal Strategies LLC

substituted for a future stopgap measure passed by the House, according to aides who participated in a meeting of House leaders. If the Senate is unable to swap in the language of an omnibus, it could then move to clear the stopgap measure. Any effort to pass an omnibus in the Senate would face long odds, with Republican leader Mitch McConnell (R-KY) opposed to the move and 60 votes required for passage. Many Republicans are pushing a short-term continuing resolution, which would allow them to pursue their own fiscal priorities — and spending cuts — early next year. Senate Appropriations Chairman Daniel K. Inouye (D-HI) would like to pass an omnibus bill, but it is unclear whether he has the votes to do so. Instead of attaching an omnibus to a short-term extension, the Senate could take up an existing House-passed spending bill and include the omnibus. Senate aides said it was very unlikely there would be any effort to attach an omnibus to other legislation or to pass a catchall bill until next week at the earliest.

Before Thanksgiving, House Republicans renewed their moratorium on earmarks which they plan to expand to cover the entire House once they assume control in the 112th Congress. The existing moratorium was voluntary and involved just House Republicans; the new moratorium will include earmarks for both parties in the House. But leaders have not decided how they will formally enforce the ban for the full House.

However, interesting to note, some Republicans, including ultra conservative, Tea Party darling Congresswoman Michelle Bachman (R-MN), are pushing for infrastructure projects to not fall under the definition of an earmark. (Infrastructure earmarks are seen as particularly vital to communities and lawmakers are loath to cede all decisions on transportation projects to the Administration.) Several authorizing bills - - the Farm bill, the Water Resources Development Act (WRDA) and the Transportation Authorization bill (TEA) are almost completely comprised of project earmarks. Without earmarks, all three bills would probably not have enough support to pass the Congress.

Other Members are calling for a re- definition of what “an earmark” really is. Should projects that are authorized not be considered earmarks? Should projects for non-profits or municipalities not be considered earmarks? These are all things that the Majority Leaders must figure out in the weeks ahead. We will be following this debate very closely!

Outlook for December

Even after many months of facing the issues of taxation and spending, Congress seems to have no plan for how to handle continuing government funding or extending the Bush-era tax cuts. Today, the Senate Democratic Caucus has a four-hour meeting scheduled to discuss the remaining “must pass” measures. There is also a bi-partisan House and Senate leadership meeting scheduled for this morning at the White House to further discuss the remaining “must pass” items for this lame duck session. We hope to have a better idea about the upcoming agenda later this week.

WRDA Hearings in the Senate

Senator Boxer held a hearing this past week in the Senate Environment and Public Works Committee about the 2010 Water Resources Development Act (WRDA). Even though Congress is supposed to enact a new WRDA every two years, they rarely are able to keep that schedule. The last WRDA passed in 2007 and took five years to negotiate. Senator Boxer’s hearing was

Innovative Federal Strategies LLC

oddly timed because Congress will not be able to consider a WRDA bill during the remaining few weeks of 111th Congress. But the testimony gathered will become part of the record for the WRDA that we expect will be compiled early next year.

Committee Chairmanships

Yesterday the Republican Steering Committee started the process of selecting committee chairmen by interviewing candidates for the top jobs on the 15 committees that have no publicly contested races. The committee faces a far more difficult task today when it will hear from prospective candidates vying for the chairmanships of the five committees with more than one Republican in the races, including Mr. Lewis for House Appropriations Chair. At least two of these bids also will require the Steering Committee to decide whether to waive a conference rule that limits chairmen and ranking members to three terms — just two weeks after Republicans voted to renew that rule. Top slots on the Appropriations, Energy and Commerce, Financial Services, Intelligence and Veterans' Affairs panels remain up for grabs. The Republican Conference could vote on the nominees selected by the Steering Committee as early as December 8. Nominated Speaker John A. Boehner (R-OH) will appoint the head of the House Administration Committee. While the presentations are scheduled for this afternoon, there may not be a vote on the new Chairmen until December 7 - - one day before these recommendations will be voted on by the full Republican Conference.

It is beginning to look a lot like Christmas!!! As always, we will keep you posted.

Information in this newsletter was sourced from among the following: discussions with Members of Congress or their staff, Congressional Quarterly, National Journal, Congress Daily, Roll Call, the Hill or other publications.

Water Supply Assessment For the Proposed Morris Lode Mine

Prepared for:
Bighorn-Desert View Water Agency
622 South Jemez Trail
Yucca Valley, CA 92284

November 24, 2010

Prepared by:
Lilburn Corporation
1905 Business Center Drive
San Bernardino, CA 92408

	PAGE
1.0 EXECUTIVE SUMMARY	1
2.0 INTRODUCTION	3
2.1 Background	3
2.2 Purpose of Document	5
2.2.1 Applicability of a Water Supply Assessment	5
2.2.2 Applicability of a Water Supply Verification	6
2.3 Public Water System	6
2.3.1 Description	6
3.0 WATER DEMANDS	8
3.1 Project-Specific Water Conservation	10
4.0 WATER SUPPLY ASSESSMENT	10
4.1 General	10
4.2 Identification of Water Sources	10
4.2.1 Primary Water Sources	10
4.2.2 Additional Water Sources	10
4.3 Analysis of Water Supply	11
4.3.1 Aquifer Adjudication	11
4.3.2 Groundwater	11
4.3.3 Historical Groundwater Data	13
4.3.4 State Water Project Water	14
4.3.5 Surface Water	15
4.3.6 Recycled Water	15
4.4 Sufficiency Analysis	15
5.0 IMPACTS ON OTHER PROJECTS	16
6.0 RIGHTS TO GROUNDWATER	17
7.0 VERIFICATION	17
LIST OF SUPPORTING DOCUMENTATION	18

LIST OF FIGURES

Figure 1 Regional Location Map	4
Figure 2 Morongo Basin/Johnson Valley Area	9

LIST OF TABLES

Table 1 Projected Customer Growth.....8

Table 2 Historic Annual Production Data for BDVWA Well 1013

Table 3 Mojave Water Agency State Water Project Available Water Supply Sources
 Through 2030.....14

Table 4 Available Water Supply During Average Single Dry Year Under Agriculture
 Scenario 2 – Johnson Valley.....16

1.0 EXECUTIVE SUMMARY

This Water Supply Assessment was prepared in conjunction with the preparation of a California Environmental Quality Act (CEQA) Initial Study for the proposed Morris Lode Mine ("Proposed Project") located in San Bernardino County, California. The site has been historically and intermittently mined since the 1940's (pre-California Surface Mining and Reclamation Act of 1975). The Proposed Project is not within the service area of a public water supplier, but will be served by the Bighorn-Desert View Water Agency (BDVWA) through the sale of metered bulk water from a BDVWA groundwater well. BDVWA is a water retailer within the boundaries of the Mojave Water Agency (MWA). MWA is a State Water Project contractor, a regional groundwater management agency, and serves as Watermaster for the adjudicated Mojave Basin. The Project Site is within the MWA boundaries, but not within the adjudicated area of the basin.

The Operator of the proposed mine is required to comply with all applicable Mojave Desert Air Quality Management District (MDAQMD) rules and regulations as the Mojave Desert Air Basin is in non-attainment status for ozone and suspended particulates (PM₁₀ and PM_{2.5} (state)). To limit dust production, the Applicant must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures (BACM) for each fugitive dust source. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. Water is not presently provided to or available at the Project Site, and will be required for the proposed mine operations to comply with MDAQMD rules and regulations.

The Project Site is located approximately 24 miles east of the community of Lucerne Valley and approximately 4 miles east of Bessemer Mine Road in San Bernardino County, California. The western boundary of the Twentynine Palms Marine Corps Air Ground Combat Center is approximately 2.5 miles to the east of the site.

SB 610 requires a WSA in connection with the CEQA review of, among other things, any "processing plant" on more than 40 acres of land. The proposed mine will include processing facilities for 18,000,000 tons of ore over a 45-year period, based on the approved extraction rate and operational timeframe. The average annual production will be 400,000 tons. The mine will operate 8 hours/day, 5 days/week, and 260 days/year, with the option to ship 24 hours per day 7 days a week.

At completion, the Proposed Project will generate a water demand for dust control totaling an estimated 1.28 acre-feet of water per year. The supply would be trucked to the mine site and acquired from the Bighorn-Desert View Water Agency's bulk water supply source in Johnson Valley (approximately 18 miles to the south). The Johnson Valley community relies on groundwater pumped from the non-adjudicated Morongo Basin/Johnson Valley area of the Mojave Water Agency.

Furthermore, the Proposed Project is within the region of San Bernardino County for which Ordinance No. 3872 relating to groundwater management in the unincorporated, unadjudicated desert region of the County applies. However the project is exempt from application of the Ordinance for the following reasons:

33.06552 Scope and Exclusions (c) shall not apply to (3) groundwater well operations approved before the effective date of this Article; and (4) groundwater wells used in conjunction with mining operations for which a currently valid and complied with mining reclamation plan has been established.

The County Standard Procedure No. 8-11 requires a Hydrogeologic Report for all projects that contemplate the extraction of underlying groundwater at a total rate equal to or greater than ten (10) acre feet per year. The County Geologist may apply a lesser threshold to projects within impaired or very limited groundwater basins.

The Proposed Project's demand of 1.28 acre-feet/year would represent approximately 3.2% of the projected consumptive use of 2010 for the Johnson Valley Area (*MWA 2004 Regional Water Management Plan, Table 5-10(s)*). The Area is not projected to experience any groundwater deficit during a single dry year event or multiple dry year event (*MWA 2004 Regional Water Management Plan, Table 5-17(s); pages 70 and 71, Basin Conceptual Model and Assessment of Water Supply Demand for the Ames Valley, Johnson Valley, and Means Valley Groundwater Basins*).

The Proposed Project will not have a significant impact on agricultural, potable or industrial users. Neither will the Proposed Project affect the water supply for any lower-income housing projects.

2.0 INTRODUCTION

2.1 BACKGROUND

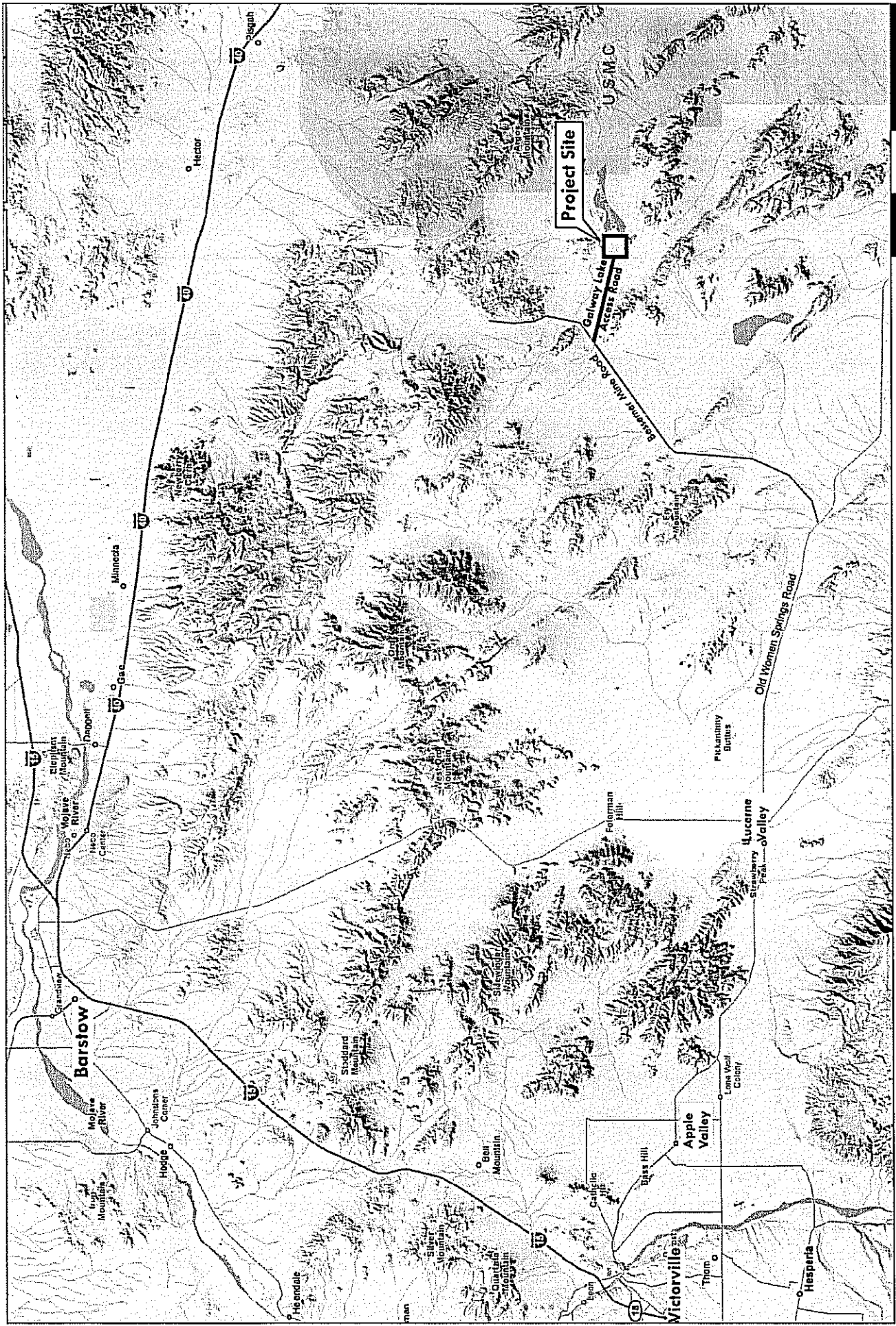
Hahm International, Inc. has submitted an application for a Mine Reclamation Plan for the Morris Mine. The Morris Mine is an iron ore deposit that has been explored and mined intermittently since the 1940's. It is located approximately 24 miles east of the community of Lucerne Valley and approximately 4 miles east of Bessemer Mine Road in San Bernardino County, California. The legal description for the proposed mine site, involving both patented and unpatented claims is T5N, R4E, Section 12 and T5N, R5E, Section 7. The site is accessed from Highway 247 east of Lucerne Valley via Bessemer Mine Road (unpaved public road, 10 miles northeast) and Galway Lake Road (unpaved public road, 4 miles east) (see Figure 1 – Regional Location Map).

The Morris holdings consist of patented and unpatented claims owned by Hahm. The extent of the claims includes approximately 160 acres of unpatented claims and 180 acres of patented claims (private land). However, the proposed Morris Mine is planned to include approximately 100 patented acres of which approximately 61.1 acres will be disturbed by mining activities. Surrounding land uses predominately consist of vacant public lands administered by the Bureau of Land Management (BLM) and designated for open uses, which allows cross-country off-highway vehicle usage.

Elevation at the site ranges from 2,720 to 2,840 feet above mean sea level (amsl), a 120-foot change. The Project Site was mined from the late 1940s until 1965. Approximately 46 acres of the site have been disturbed due to previous mining activities and drill rig explorations, as well as off-road vehicle usage. The Project Site vegetation is characterized as Creosote Bush-Burro Bush Alliance.

Based on historical drilling since the 1940s, the site has estimated proven and inferred reserves of 18,000,000 tons of iron ore with an average concentration of 52 percent of iron. The Project Site will be mined at a maximum average production rate of 400,000 tons annually which will provide reserves for up to 45 years (approximate year of 2055). Crushed iron ore will be shipped by haul truck mainly for use by the area's cement plants located in Cushenbury and the Victorville area.

Since the Proposed Project is subject to the California Environmental Quality Act process (CEQA) an Initial Study/Negative Declaration has been prepared and will be circulated to the public by the County of San Bernardino acting as the CEQA Lead Agency. The Bighorn-Desert View Water Agency, as water provider, has determined that a Water Supply Assessment (WSA) is necessary to complete the Project's CEQA process and for the County to approve the project for development since the proposed development is a "Project" as defined by Water Code Section 10912.



Regional Location

Morris Mine Water Supply Assessment
County of San Bernardino, California

Figure 1

2.2 PURPOSE OF DOCUMENT

The Operator of the proposed mine is required to comply with all applicable Mojave Desert Air Quality Management District (MDAQMD) rules and regulations as the Mojave Desert Air Basin is in non-attainment status for ozone and suspended particulates (PM₁₀ and PM_{2.5} (state)). To limit dust production, the Applicant must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures (BACM) for each fugitive dust source. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. Water is not presently provided to or available at the Project Site, and will be required for the proposed mine operations to comply with MDAQMD rules and regulations.

Upon request of a local government, a public water supplier (PWS) is required by law to provide documentation regarding the water supply for new projects. The WSA is included in the CEQA documentation and it becomes information used in the approval process. In the case of the Proposed Project, the site does not lie within the boundaries of the Bighorn-Desert View Water Agency (BDVWA) which is the nearest PWS, lying approximately 18 miles to the south. However BDVWA will supply water to the project via bulk water sales from an existing groundwater well that the agency owns in Johnson Valley. The water will be hauled to the Project Site via truck.

At completion, the Proposed Project will generate a water demand for dust control totaling an estimated 1.28 acre-feet of water per year (two 4,000 gallon water truck deliveries/week). Non-potable water could be used for dust control purposes. Bottled drinking water will also be delivered to the site. The County Fire Warden requires 5,000 gallons of water be stored at all times in the on-site water tank to control any fire related emergency.

The regional water management agency overlying the source of water supply is the Mojave Water Agency (MWA) and therefore the most current MWA Regional Water Management Plan and Urban Water Management Plan was referenced in preparation of this WSA. This document addresses the historic and current water supplies of the Johnson Valley Area and the Proposed Project's impact on the area's water supplies during projected water supply conditions. The Morongo Basin/Johnson Valley Area within the Mojave Water Agency boundaries includes:

- Copper Mtn. Valley
- Johnson Valley
- Means/Ames Valley
- Warren Valley

2.2.1 Applicability of a Water Supply Assessment

A WSA is required for a project consisting of a "proposed industrial, manufacturing or processing plant" occupying more than 40 acres of land (Water Code Section 10912; SB 610). In the May 2010 decision in *Center for Biological Diversity v. County of San Bernardino*, the Court of Appeal held that a biosolids composting facility is a "processing plant" and thus a "project"

within the meaning of SB 610 if it meets the 40-acre threshold, even if only small structures will be constructed on-site. It is less likely that the proposed Morris Mine would be considered a "project" under SB610, since the project does not involve any new processing equipment within the mine. Nonetheless, given the uncertainty created by the *Center for Biological Diversity* decision, this Water Supply Assessment has been prepared to support the Morris Mine application.

2.2.2 Applicability of a Water Supply Verification

A Water Supply Verification (WSV) is required prior to the approval of a tentative subdivision map, or a parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 500 dwelling units, except as specified, including the design of the subdivision or similar type of improvement. The purpose of the WSV is to provide the legislative body of a city, county or the designated advisory agency with written verification from the applicable public water purveyor that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project. A WSV is not required in this case because the Proposed Project is not a subdivision or parcel map or development agreement.

The Proposed Project is within the region of San Bernardino County for which Ordinance No. 3872 relating to groundwater management in the unincorporated, unadjudicated desert region of the County applies. However the project is exempt from application of the Ordinance for the following reasons:

33.06552 Scope and Exclusions (c) shall not apply to (3) groundwater well operations approved before the effective date of this Article; and (4) groundwater wells used in conjunction with mining operations for which a currently valid and complied with mining reclamation plan has been established.

The County Standard Procedure No. 8-11 requires a Hydrogeologic Report for all projects that contemplate the extraction of underlying groundwater at a total rate equal to or greater than ten (10) acre feet per year. The County Geologist may apply a lesser threshold to projects within impaired or very limited groundwater basins.

2.3 PUBLIC WATER SYSTEM

2.3.1 Description

The Project Site is located east of the unincorporated community of Lucerne Valley and north of Johnson Valley, San Bernardino County. Community residents in both areas receive their water via individual wells, mutual water companies, or small community water systems (e.g. homeowner associations). There is no public water system within Lucerne Valley however, the Project Applicant has requested that the Bighorn-Desert View Water Agency, which has water supplies in Johnson Valley, allow for the acquisition of bulk water to truck to the Project Site.

Service Area Description

Bighorn-Desert View Water Agency (BDVWA) is located in San Bernardino County near the Town of Yucca Valley and unincorporated community of Landers. The water agency was formed by the merger of Bighorn Mountain Water Agency and Desert View County Water District in 1989. The service area of BDVWA encompasses 44 square miles, or over 27,880 acres. It is also located adjacent to the Hi-Desert Water District and County Service Area 70. BDVWA overlies the Ames Valley, Johnson Valley, and Means Valley groundwater basins which combined, cover over 360 square miles in San Bernardino County. In addition to the three water purveyors mentioned above, the Joshua Basin Water District also overlies these three basins. BDVWA pumps groundwater from the three basins; the one well operated in Johnson Valley is used to fill a reservoir from which bulk water sales are made for truck deliveries. This well would be the source of supply for the Proposed Project.

Service Area Climate

The BDVWA Master Plan cites temperature data collected at Victorville as being representative of the high desert and the BDVWA service area as no long-term records are available for the Yucca Valley area. The Victorville data presented in Figure 1.3 of the Master Plan show monthly temperatures averaging 73.4 degrees to 79.2 degrees in the summer months of June to September. Monthly temperatures in the winter months average 45.0 to 48.6 degrees (December through February). The average annual monthly temperature is 61.5 degrees.

Precipitation (rainfall) data is collected throughout the County by the San Bernardino County Flood Control District. The nearest rainfall station to BDVWA is the Yucca Valley Station with data available from 1967 until data collection ceased in December 2005. During the 39-year record, the highest day of rainfall occurred on February 6, 1976 and was 1.78 inches. The highest year was 12.39 inches occurring in 1978. Due to data inconsistencies, these numbers are considered representative.

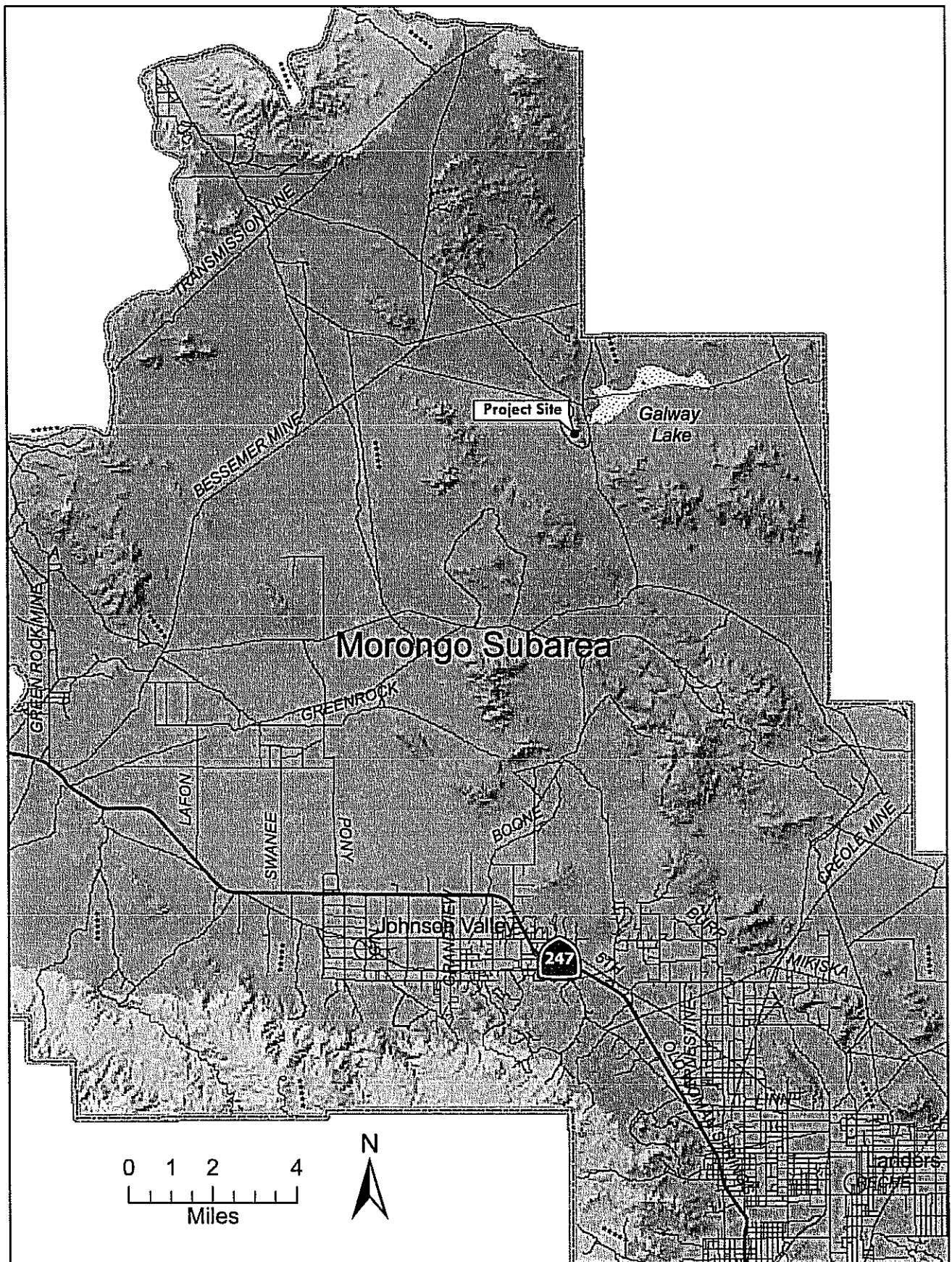
Service Area Population

The BDVWA Master Plan estimates service area customers in 2007 at 1,582 distributed over an area of approximately 27,880 acres. The area where service is provided is about 18,720 acres excluding the Johnson Valley area. Direct service connections in Johnson Valley are not provided by BDVWA. The ultimate service area population projected by BDVWA is between 3,045 and 4,445 customers (*BDVWA Master Plan*, pg. 6). Immediate growth similar to what has occurred in urban areas (e.g. Yucca Valley) is not foreseen.

Between 1998 and 2006, BDVWA added a total of 85 customers. The Master Plan indicates the projected customer growth both with and without the potential of developing Section 35 which is currently within BDVWA's Sphere of Influence. Table 1 below shows the growth projections with the incorporation of Section 35. Extrapolating the 2020 to 2025 growth rate projection to an annual growth rate of 1.65%, the 2030 projected population within BDVWA's Sphere of

Influence with incorporation of Section 35 would be 2,947. Over the 20-year period from 2010 to 2030, population would increase by 64%.

DRAFT



Source: <http://www.majawater.org>

Morongo Basin / Johnson Valley Area

Morris Mine Water Supply Assessment
County of San Bernardino, California

Figure 2

Table 1
Projected Customer Growth

2006	1,582
2010	1,792
2015	2,192
2020	2,392
2025	2,392
2030	2,947

Population for Johnson Valley estimated in the 2004 MWA Regional Water Management Plan Table 5-1 was not projected for the year 2000, but indicates actual population at 400. The population is projected to grow to 700 by the year 2030 (Note: 75% increase over 20 years). Table 5-1 is footnoted to state that the Morongo Basin/Johnson Valleys subbasin populations represent the population served by each subbasin, not the population that overlies the subbasin. The population estimates represent the population served by the production in each groundwater basin and therefore do not necessarily represent the population living in any particular geographic area. The overall population of the Mojave water Agency experienced an average annual growth rate of 1.6% per year between 1990 and 2000 (*MWA 2004 Regional Water Management Plan, pgs. 5-2 to 5-3*).

The California Department of Finance Table 2: E-4 Population Estimates for Cities, Counties and State 2001-2010 with 2000 Benchmark shows a 26.2% increase occurred in Yucca Valley's population between the years 2001 and 2010.

3.0 WATER DEMANDS

At completion, the Proposed Project will generate a water demand for dust control totaling an estimated 1.28 acre-feet of water per year (two 4,000-gallon water truck deliveries/week). The supply will be acquired from the well located in Johnson Valley and owned by Bighorn Desert View Water Agency. Bottled drinking water will also be delivered to the Project Site. The County Fire Warden requires 5,000 gallons of water be stored at all times in the on-site water tank to control any fire-related emergency.

Johnson Valley lies within the Morongo Basin/Johnson Valley area of the Mojave Water Agency (see Figure 2). In the Mojave Water Agency's 2005 Urban Water Management Plan, the Johnson Valley was estimated to have a population of 400 in 2005 and the population was projected to grow to 700 by the year 2030. Total consumptive use of groundwater was projected to increase for the Johnson Valley area from 30 acre-feet in 2005 to 50 acre-feet in 2030. The consumptive use was projected to be in the use category of "municipal".

The Basin Conceptual Model prepared by Kennedy/Jenks/Todd LLC in April 2007 finds that the Johnson Valley has very little current or future demand for water supply and indicates a surplus of water through 2030 under average conditions. In 2030, the projected surplus of groundwater supply over demand is 874 acre feet. The BDVWA Master Plan indicates the total projected

Figure 2



customer demand within BDVWA, using Ames Valley and Johnson Valley groundwater supplies, is 829 acre feet in the year 2025.

3.1 PROJECT-SPECIFIC WATER CONSERVATION

No water conservation measures are proposed for the mine operation because water use will be limited to dust control. In the event water supplies become limited, mine operations would be minimized. The mine plan of operation would be approved for an annual production limit; daily or monthly production would be adjusted if required to meet limited water supply availability.

4.0 WATER SUPPLY ASSESSMENT

4.1 GENERAL

A requirement of the WSA is to identify and describe the water supply sources in the PWS that will serve the Project. Water Code Section 10910(d) requires a WSA to include an identification of any existing water supply entitlements, water rights, or water service contracts relevant to the identified water supply for the proposed project, and a description of the quantities of water received in prior years by the PWS.

4.2 IDENTIFICATION OF WATER SOURCES

4.2.1 Primary Water Sources

The Proposed Project will use water (non-potable acceptable) for dust control and bottled water for drinking water. A water supply has not been developed on the Project Site and water will be acquired from Bighorn-Desert View Water Agency's groundwater supply in Johnson Valley. Water for dust control will be hauled to the Project Site from Johnson Valley. Drinking water demands will be minimal (approximately 3 employees on-site during day shift) and cases of bottled water will be brought to the site by management/employees.

The water source for the community of Johnson Valley is groundwater from the Morongo Basin/Johnson Valley area of the Mojave Water Agency. Water is supplied via individual wells or delivered from the well owned by the Bighorn-Desert View Water Agency (BDVWA). The Proposed Project operator would acquire bulk water from BDVWA via the water-hauling station in Johnson Valley located at Quail Bush and Airport Road off of Valley Vista and State Route 247.

4.2.2 Additional Water Sources

The BDVWA's Well 10 is the nearest source of supply to the Project Site that is not within an adjudicated groundwater basin. BDVWA's has only one well located in Johnson Valley, but pumps from other wells located within the Ames Valley groundwater basin. The BDVWA is

also exploring the feasibility of drilling additional wells in Johnson Valley (a hydrogeological investigation is currently underway).

Additional sources of groundwater to be purchased and delivered to the Project Site were investigated. There were no available sources of water identified that were not located within adjudicated areas of the Mojave Water Agency, such as Lucerne Valley. Due to the remoteness of the Project Site, no other water sources are available to provide the required water supply.

4.3 ANALYSIS OF WATER SUPPLY

4.3.1 Aquifer Adjudication

The adjudication process of the groundwater in Mojave Basin began in 1990 with cross complaints filed in 1991. In 1992 numerous parties agreed to conduct good faith negotiations and by 1993 over 75 percent of the parties involved were agreed to the Stipulated Judgment, thus binding the involved parties. The final judgment was entered in 1996 adopting the physical solution set forth in the Stipulated Judgment. The purpose of the Stipulated Judgment was to create incentives to conserve local water, guarantee that downstream producers will not be adversely affected by upstream producers, and assess producers to obtain funding for the purchase of imported water.

Under the Stipulated Judgment and applicable law, producers within the adjudicated area continue to have the right to pump groundwater. In Lucerne Valley, groundwater is used primarily for residential uses with some commercial uses, including water haul trucks. Producers that pump 10 acre-feet annually or less are exempt from reporting under the adjudication, but may be subject to a minimal producer program still under development by the MWA.

The Morongo/Johnson Valley area of the Mojave Water Agency is not adjudicated and therefore groundwater supplies from this area will be the primary source of supply for the Proposed Project.

4.3.2 Groundwater

The Bessemer Valley Groundwater Basin underlies Bessemer Valley in eastern San Bernardino County where the Morris Mine site is located. The basin is bounded by nonwater-bearing rocks of the Iron Ridge Mountains on the north and bedrock highlands on the south, and by the West Calico fault on the east and the Emerson fault on the west (Rogers 1967). An arm of the basin extends northwestwards following the Camp Rock and Emerson faults and is bounded by the Rodman Mountains on the east and the Fry Mountains and bedrock highlands on the west. Surface waters drain southward towards Galway (Dry) Lake. Annual average precipitation ranges from about 4 to 8 inches. The water bearing materials that form this basin consist of alluvium, fanglomerate, and playa lake deposits. Quaternary alluvium is the principal water-bearing material and includes included are the unconsolidated younger alluvial deposits and the underlying unconsolidated to semi-consolidated older alluvial deposits (DWR 1964). Wells in the

basin yield as much as 60 gpm. Groundwater from this basin however will not be used for the mine's dust control needs; no wells are drilled on or in the vicinity of the mine property.

Water Code Section 10910(f) requires additional information when a groundwater basin is cited as a water supply source for a project. The additional information includes a description of the basin, the rights of the supplier to use the basin, the overdraft status of the basin, any past or planned overdraft mitigation efforts, historical use of the basin, projected use of the basin by the Project, and a sufficiency analysis of the basin to supply the Project for a period of at least 20 years.

BDVWA relies solely on groundwater from the Ames Valley, Means Valley, and Johnson Valley groundwater basins. These groundwater basins cover more than 360 square miles of the southwestern Mojave Desert in San Bernardino County. The areas overlying the groundwater basins are sparsely populated. The upstream portions of the basin watersheds are located in the San Bernardino Mountains and contribute runoff and recharge to the basins. Lower portions of the watershed are of less importance where very little runoff and essentially no groundwater recharge occurs. Groundwater basins boundaries were adopted by DWR in the 2003 update of Bulletin 118 on California's Groundwater (Kennedy/Jenks/Todd, 2007).

Three other water purveyors pump groundwater from these basins – Joshua Basin Water District, Hi-Desert Water District, and County Service Area 70. In addition, there are overlying private wells that have rights to groundwater.

BDVWA's customer base is less than 3,000 and therefore the agency is not required to prepare an Urban Water Management Plan in accordance with SB 610. Groundwater supply and demand information used in preparation of this WSA is provided by the BDVWA Master Plan and Basin Conceptual Model reports prepared in 2007. The Basin Conceptual Model prepared by Kennedy/Jenks/Todd LLC in April 2007 finds that the Johnson Valley has very little current or future demand for water supply and indicates a surplus of water through 2030 under average conditions. In 2030, the projected surplus of groundwater supply over demand is 874 acre feet. The Proposed Project is considered to be included within the projected demand of bulk water sales from Well 10.

A preliminary water balance was conducted as a part of the Basin Conceptual Model for the three groundwater basins that BDVWA overlies. The source of supply for the subject project is the Johnson Valley groundwater basin. 2005 pumping reported by BDVWA was estimated at 10 acre-feet/year or the equivalent of demand for an estimated 70-100 persons. Population of the valley was estimated at 400 in 2005, thereby indicating the use of private wells for a population of approximately 300. The findings conclude that the basin is in balance with significant subsurface outflows and losses to evaporation at dry lakes. If actual pumping is higher due to private well use, then subsurface outflow and evapotranspiration would likely decrease. This conclusion is based on water level trends, indicating no significant change in groundwater storage. Although future population and water demand are expected to increase, projected increases are small. If increased demand is met by drilling additional wells, pumping could

likely be placed to intercept groundwater that would otherwise be lost to subsurface outflow and evapotranspiration (*pp. v – vii Basin Conceptual Model*).

Production data for BDVWA's Well 10 located in Johnson Valley is shown in Table 2.

Table 2
Historic Annual Production Data for BDVWA Well 10

Year	Acre-Feet
2010	5.42
2009	6.76
2008	6.02
2007	8.30
2006	13.02
2005	10.84
2004	12.16
2003	13.64
2002	13.65
2001	9.97
2000	6.18

4.3.3 Historical Groundwater Data

The groundwater basins within the Morongo Basin/Johnson Valley Area are bounded by the Ord and Granite Mountains to the north; the Bullion Mountains to the east; the San Bernardino Mountains to the southwest; and the Pinto and Little San Bernardino Mountains to the south.. The water supply estimates prepared for the Mojave Water Agency 1994 Regional Water Management Plan compiled water supply data for the regional into 4 subbasins. The net average annual water supply estimates for the Johnson Valley groundwater basin is 2,300 acre-feet (Mojave Water Agency 2004 Regional Water Management Plan).

Groundwater levels were evaluated in the 2007 Conceptual Basin Model and found to have been relatively stable over a 50-year period, attributable to the fact that pumping has been relatively small. Groundwater levels for BDVWA's Well 10 in the Johnson Valley groundwater basin declined 6 feet between 1996 and 1998.

The Basin Conceptual Model results for Johnson Valley indicate the basin has groundwater in storage totaling 2.27 million acre-feet; approximately 1,000,000 acre feet in the Johnson Subbasin, 850,000 in the Fry Subbasin, and 420,000 acre-feet I the Upper Johnson Subbasin. Much of the groundwater in storage cannot be accessed economically by well drilling.

4.3.4 State Water Project Water

MWA is one of the 29 State Water Project (SWP) contractors. The SWP includes 660 miles of aqueduct ("California Aqueduct") and conveyance facilities extending from Lake Oroville in the north to Lake Perris in the south.

The Morongo Basin Pipeline, which extends from the California Aqueduct was completed by the MWA in 1994 and delivers water to the Hi-Desert Water District (located southeast of Johnson Valley). Water is diverted to recharge basins in an effort to reduce overdraft in the Warren Valley Basin. The Morongo Basin Pipeline Agreement also guarantees an allocation of State Water Project water to BDVWA between now and 2023 when the bond is paid off. The allocation is between 600 and 700 AF/yr (and dependent on Table A allocation deliveries to MWA). Thereafter, BDVWA expects to retain 9% capacity share in the pipeline. MWA will supply water to BDVWA under its Ordinance 9 process which is intended to be a fair and equitable way to distribute MWA's Table A annual allocations.

The SWP is contracted to deliver 4.1 million ac-ft/yr to the 29 contracting agencies. SWP delivery reliability factors of between 69% and 77% were utilized in the MWA 2005 UWMP, which yield a conservative 53,800 to 58,400 acre-feet of entitlement for MWA, as shown in Table 3.

Table 3
Mojave Water Agency State Water Project
Available Water Supply Sources through 2030

Supply Type	2010	2015	2020	2025	2030
Natural	65,500	65,500	65,500	65,500	65,500
State Water Project	53,800	55,300	58,400	58,400	58,400
Total	119,300	120,800	123,900	123,900	123,900

Source: Draft 2005 Urban Water Management Plan Update, Table 4-9(s): Available Water Supply Sources Through 2030, Mojave Water Agency, 2005.

MWA has recognized the need for additional imported water in order to eliminate groundwater overdraft, and has purchased additional water from the SWP when available. Additional SWP water is not expected to be available on a regular basis in the future and should not be relied upon as the only long-term source of overdraft reduction in the Mojave Water Basin. Purchase of additional SWP water involves the purchase of water on the spot market, as opposed to the purchase of entitlement to an ongoing supply of that water. It should be noted that the spot market comes into play when all of MWA's entitlements are being imported into the basin.

MWA reached agreement with the Metropolitan Water District (MWD) of Southern California in 2003 to store up to 75,000 (45,000 delivered to date) acre-feet for MWD in the Mojave basin. This storage is being provided in exchange for MWD's right to receive an equal amount of water in the future, through entitlement exchange, should there be a significant drought. In addition to

the spot market, on an on-going basis MWA is pursuing additional SWP entitlements when they become available. In dry years when SWP or Colorado River supplies are reduced, MWD will have the ability to call back some of the transferred water stored in the Mojave Basin, based on the limitations of the storage agreement between MWD and MWA.

4.3.5 Surface Water

The MWA service area is divided into two major surface drainage areas. The Morongo Basin/Johnson Valley Area drains into the Colorado River drainage area or into local terminal dry lakes. Terminal dry lakes are lake beds that collect water only during periods when there is sufficient runoff, have no outlet, and lose all their water to evaporation.

The Morongo Basin/Johnson Valley area has no sizeable rivers, only small ephemeral streams that collect runoff from surrounding mountains during storms. The mountain stream runoff either percolates into the stream bed, or during large storm events, flows to dry lake beds where it evaporates (*MWA, 2004 Regional Water Management Plan*).

Water from the State Water Project is the only other surface water that may be considered for treatment or direct use, and is limited by the variability of the supply from the delta and the amount of water MWA has available after contractual deliveries are met. Surface water is not treated or used for domestic water purposes.

4.3.6 Recycled Water

No recycled water is available to the Project Site or within the area of the water supply. The mine would have portable toilets on-site for domestic waste. Wastewater service in Johnson Valley is via individual septic systems.

4.4 SUFFICIENCY ANALYSIS

The Mojave Water Agency 2005 UWMP projects the single-dry year conditions to be based on the 1977 southern California drought conditions. Such hydrologic conditions are used by the State Department of Water Resources as conditions under which State Water Project water deliveries would be limited to 4% of SWP contractors' entitlements. As shown in Table 5-17 of the MWA 2005 UMWP, the Johnson Valley would experience surpluses of groundwater as shown in Table 4. The single-dry year surplus was calculated based on groundwater conditions, availability of State Water Project water, groundwater in storage, and projected demands as detailed in the MWA 2005 UWMP.

Table 4
Available Water Supply During Average Single Dry Year
Under Agriculture Scenario 2 (acre-feet/year) - Johnson Valley

Year	Acre-Feet
2005	100
2010	90
2015	90
2020	80
2025	80
2030	80

Source: Table 5-17(s) MWA 2005 Urban Water Management Plan

The Proposed Project's demand of 1.28 acre-feet/year would represent less than 2% of the groundwater surplus of 80 acre-feet during a single dry year event. As stated in Section 3.2 above, in the event water supplies become limited, mine operations would be minimized to meet water availability. The Proposed Project could reduce its water demand by 50% if water supplies are projected at a deficit.

The 2004 Regional Water Management Plan projects water supplies in multiple dry year scenarios. Table 5-13 shows the Johnson Valley having a surplus of 830 acre-feet during the Year 2020 Average Annual Dry Year. Table 5-14 shows Johnson Valley having a surplus of 80 acre-feet during the Year 2020 Multiple Dry Year Average. For each of the 5-year increments (2000 to 2020), under the Average Annual Year, or Average Annual Dry Year scenarios, the Johnson Valley is projected to have a surplus of groundwater.

Single dry-year and multiple dry-year scenarios were also conducted for the Basin Conceptual Model for each of the three groundwater basins evaluated. The Johnson Valley groundwater basin was shown to have a minimum surplus of 189 acre-feet during single dry-year conditions and a minimum surplus of 471 acre-feet/year during multiple dry-year conditions for each of the five-year projections between 2005 and 2030 (*see pages 70 and 71, Basin Conceptual Model and Assessment of Water Supply Demand for the Ames Valley, Johnson Valley, and Means Valley Groundwater Basins*).

In all scenarios, Johnson Valley is projected to have a surplus of groundwater and therefore, the Proposed Project's estimated demand of 1.28 acre-feet per year will not adversely affect the water balance. As noted in MWA's planning documents, water quality constrains use in certain areas of Johnson Valley. The Proposed Project's consumptive use for dust control will not be affected by water quality.

5.0 IMPACTS ON OTHER PROJECTS

This Project will not have a significant impact on agricultural, potable or industrial users. Neither will this Project affect the water supply for any lower-income housing projects.

6.0 RIGHTS TO GROUNDWATER

As previously noted, the aquifer from which water supply would be produced for the Proposed Project has not been adjudicated. Groundwater producers in the non-adjudicated Johnson Valley have the right to extract groundwater unlimited by a Judgment.

7.0 VERIFICATION

This document verifies the water supply for the Project as required by California Government Code 66473.7 is available.

List of Supporting Documentation

Supporting documentation was used in preparing this assessment. These include the following:

- Basin Conceptual Model and Assessment of Water Supply and Demand for the Ames Valley, Johnson Valley, and Means Valley Groundwater Basins, prepared by Kennedy/Jenks/Todd LLC, April 2007
- Bighorn-Desert View Water Agency Master Plan, March 14, 2007
- California Department of Water Resources Water Data Base:
www.water.ca.gov/waterdatalibrary
- Mojave Water Agency 2004 Regional Water Management Plan, December 2005
- Mojave Water Agency Urban Water Management Plan, December 2005

Bighorn-Desert View Water Agency

Board of Directors

Terry Burkhart, President
J. Larry Coulombe, Vice President
Michael McBride, Director
David Larson, Director
Judy Corl-Lorono, Director



Agency Office

622 S. Jemez Trail
Yucca Valley, CA 92284-1440

760/364-2315 Phone
760/364-3412 Fax

Marina D West, P.G., General Manager

www.bdvwa.org

A Public Agency

DATE

Ms. Lisa Scott
Hahm International
PO Box 1323
Apple Valley, CA 92307

Subject: Bulk Water Service to Hahm International, Inc. for the Proposed Morris Lode Mine Project, Johnson Valley, CA (T5N, R4E, Section 12 and T5N, R5E, Section 7)

To Whom It May Concern:

The purpose of this letter is to inform you that there is an ample supply of water within the Bighorn Desert View Water Agency ("Agency") to serve your project. This assessment is supported by the Water Supply Assessment adopted by the Agency's Board of Directors on _____, 20____. The water will be supplied through the "Well 10 Bulk Metering Station" located in Johnson Valley, San Bernardino County, California. This letter **does not guarantee** that your project meets San Bernardino county fire code. Water service will be made available to the above-described property subject to the following terms and conditions:

1. The applicant must comply with the current rules, regulations and policies of this Agency, as they are amended or may hereafter be amended, whether written or otherwise in effect at the time of approval of the application; and
2. The Agency shall not be responsible for conditions that are beyond this Agency's control such as the availability of water, acts of God, Federal, State or County regulatory agency requirements or decisions, or legal actions initiated by others; and



3. That the applicant's Conditional Use Permit be issued within five (5) years of the date of this letter and the Conditional Use Permit has not expired per the terms set forth by the County of San Bernardino. Once the applicant determines that the proposed project will commence, the Agency will be required to obtain approval from the Local Agency Formation Commission, County of San Bernardino for an "Out-of-Agency Contract for Service" per the Government Code Section 56133 Administrative Guidelines. Applicant will be required to reimburse the Agency for costs associated with the execution of said contract.
4. The applicant should contact the County of San Bernardino, Department of Building and Safety for required Building Conditions, and the County of San Bernardino Fire Marshall for fire protections requirements before applying for installation of a water meter. Building Department and/or Fire Department requirements may change the requirements for the water meter size.
5. The applicant will be served by a water meter of 2" diameter at the "Well 10 Bulk Hauling Station". The Agency can estimate but not guarantee flows or pressures at the bulk station. Backflow protection, when required by the Agency, shall be installed and paid for by the applicant.

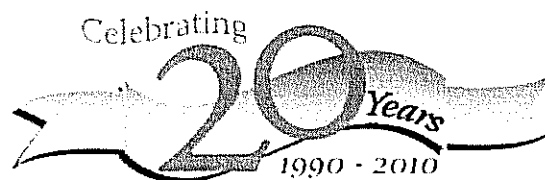
Please note that this letter and proposal to provide water service will become null and void and be of no force or effect if anyone of the foregoing terms and conditions are not complied with.

If you have any questions, please do not hesitate to contact us at (760) 364-2315.

Sincerely,

Marina D. West, PG
General Manager

CC: Susan Trager, BDVWA General Counsel SmithTrager, LLP
David Scriven, PE – Krieger & Stewart, Inc.



**BIGHORN DESERT VIEW WATER AGENCY STANDING COMMITTEE
PLANNING/ENGINEERING/LEGISLATIVE/GRANT
AGENDA ITEM SUBMITTAL**

Meeting Date: December 16, 2010

To: Planning/Engineering/Legislative/Grant
Standing Comm. of Board of Directors

Budgeted: Yes

Budgeted Amount: \$80,000 (56007)

Cost: \$7,425

From: Marina D. West

General Counsel Approval: N/A

CEQA Compliance: N/A

Subject: Water Infrastructure Restoration Program/EPA STAG Grant: Corrections to Todd Engineers Change Order No. 1 and No. 2

SUMMARY

Briefly, the actions before the committee concern the Board authorized Water Infrastructure Restoration Program/EPA STAG Professional Services Agreement with Todd Engineers. The project title, Feasibility Study, Project Management and Groundwater Management Plan Services Related to the Ames/Reche Recharge Facility Professional Services Agreement (PSA) was authorized by the Board and issued to Todd Engineers on November 17, 2009.

Change Order No. 1: Staff requests the Board authorize the inclusion of \$7,425 for legal fees associated with Task 4.2 of the Todd Engineers Professional Services Agreement Change Order No. 1 proposal dated January 26, 2010. The Board action failed to recognize these expenditures to the PSA. This expenditure was contemplated when the Board approved the FY2010/11 Operating Budget.

Change Order No. 2: The Board needs to affirm the actual amount of the Todd Engineers PSA Change Order No. 2 is \$62,093.05 not 63,900. The result is a reduction of \$1,806.95 from the Board's original authorization. The Change Order No. 2 details are in the Todd Engineers proposal dated October 27, 2010.

RECOMMENDATION

That the Committee discuss as part of the Water Infrastructure Restoration Program/EPA STAG Feasibility Study, Project Management and Groundwater Management Plan Services Professional Services Agreement (PSA) related to the Ames/Reche Spreading Grounds Project:

1. Bighorn Desert View Water Agency's intent to authorize funding \$7,425, specifically for legal fees in accordance with Task 4.2 of the PSA Change Order No. 1 proposal dated January 26, 2010, as part of the Todd Engineers PSA. This action should be retroactive to January 26, 2010 and should affirm the total amount of Change Order No. 1 to be \$60,765; and

2. That the Board affirms the actual amount of the Todd Engineers PSA Change Order No. 2 is \$62,093.05 and that this action is retroactive to coincide with the date of original Board approval on October 25, 2010; and
3. Direct staff to move the item to the full board for further consideration and approval of these procedural corrections.

BACKGROUND/ANALYSIS

Change Order No. 1:

The Agency receives 55% reimbursement for all expenditures related to the execution of the Water Infrastructure Restoration Program/EPA STAG Feasibility Study, Project Management and Groundwater Management Plan Services Professional Services Agreement (PSA) related to the Ames/Reche Spreading Grounds Project. The reimbursement is through an EPA State and Tribal Assistance Grant (EPA STAG) executed November 23, 2005. The remaining 45% of all costs are reimbursed to the Agency under a Memorandum of Understanding between the Mojave Water Agency and Bighorn Desert View Water Agency executed by the Board on August 29, 2009. However, MWA felt the Agency should fund it's own legal fees associated with the project.

In order to at least receive the 55% reimbursement the legal fees were identified in Todd Engineers January 26, 2010 Change Order No. 1 proposal as Task 4.2. While the Board was briefed January 26, 2009 of the need to allocate \$7,425 from the approved budget line item (56007 – Consulting Services: Legal), they did not specifically authorize the expenditure of those funds through the Todd Engineers Professional Services Agreement under Change Order No. 1 (see attached backup materials).

Therefore, staff requests the Board authorize the inclusion of \$7,425 for legal fees associated with Task 4.2 of the Todd Engineers Professional Services Agreement Change Order No. 1 proposal dated January 26, 2010 and that the action is retroactive to the execution date of Change Order No. 1.

Change Order No. 2

With respect to the Todd Engineers PSA Change Order No. 2, it was just after Board approval on October 25, 2010 that staff renegotiated a line item in the proposal that resulted in a cost savings to the Agency of \$1,806.95. While the executed PSA Change Order No. 2 included the correct change order amount, the Board action reflects the higher incorrect amount from original proposal (see attached backup materials).

Therefore, with respect to Change Order No. 2, staff requests the Board affirm the actual amount of the Change Order to be \$62,093.05. This includes the requested amount in the December 2, 2010 proposal letter plus the Board authorized correction of \$3,678 outlined in the attached October 25th staff report. The result is a reduction of \$1,806.95 from the Board's original authorization. This action is retroactive to the date of original Board consideration, October 25, 2010.

Both of these corrections are necessary to insure that all project related cost accounting comply with the EPA STAG Guidelines.

PRIOR RELEVANT BOARD ACTION(S)

10/25/2010 Water Infrastructure Restoration Program/EPA STAG Grant: Authorize Issuance of Change Order No. 2 to Todd Engineers in the amount of \$63,900

01/26/2010 Motion 10-004 Water Infrastructure Restoration Program/EPA STAG Grant: Approved Issuance of Change Order No. 1 to Todd Engineers in the amount of \$53,340.

11/17/2009 Motion Authorizing the General Manager to execute a Professional Services Agreement with Todd Engineers for an amount not to exceed \$408,463.45.

8/25/2009 Motion to authorize staff to execute Memorandum of Understanding by and between Mojave Water Agency and Bighorn Desert View Water Agency regarding Project Management of Phases for Phase I and II Planning and Design of the Ames-Means Recharge Project (aka Reche Recharge Facility) and accepting financial participation from Mojave Water Agency in the amount of \$279,495.

1/27/2009 R09-03 Resolution of Board of Directors approving the Guidance Document for the Development of a Groundwater Management Plan and Construction of an Artificial Recharge Project (spreading grounds) in the Reche Groundwater Subbasin of the Ames Valley Groundwater Basin.

4/24/2007 Motion to accept Water Master Plan Report by Don Howard Engineering which includes recharge facilities.

12/20/2006 06R-18 Resolution of the Board of Directors of the Bighorn-Desert View Water Agency declaring its intention to draft a Groundwater Management Plan for the Ames/Means/Johnson Valley Groundwater Basins

3/28/2006 06R-04 Resolution authorizing General Manager to enter Grant Agreement of \$477,000 (EPA STAG).

**BACKUP MATERIALS
FOR
TODD ENGINEERS
PROFESSIONAL SERVICES AGREEMENT
CHANGE ORDER NO. 1**

**BIGHORN DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: January 26, 2010

To: Board of Directors

Budgeted: Yes

Budgeted Amount: \$7,425 (line: 56007)

Funding Source: EPA/MWA: \$45,915

Agency share: \$7,425 Legal fees

From: Marina D. West

General Counsel Approval: N/A

CEQA Compliance: N/A

Subject: Change Order No. 1, in the amount of \$53,340, to Todd Engineering for Additional Services Related to the Reche Recharge Project

SUMMARY

In November 2009 the Board approved a contract with Todd Engineers to perform project management, permitting, hydrogeologic feasibility study and preparation of a Groundwater Management Plan for the Reche Groundwater Subbasin. These activities are precursors to the next phase: design and construction of the Reche Recharge Facility. The Scope of Work outlined in Change Order No. 1 results in \$53,340 of additional work primarily related to an enhanced groundwater flow model, groundwater quality testing, additional project management, technical and legal support for the Groundwater Management Plan, and additional stakeholder/public outreach. The Agency will be responsible for that portion related to legal expenses, \$7,425 to be paid from the FY2009/10 budget line item 56007.

RECOMMENDATION

That the Board take the following action:

1. Authorize General Manager to execute Change Order No. 1 in an amount not to exceed \$53,340 to Todd Engineers for additional services related to the Reche Recharge Project with the stipulation that Mojave Water Agency approve the revised scope of work and authorize payment of the 45% match funding required by the EPA STAG grant excepting legal fees which are the responsibility of the Agency.

BACKGROUND/ANALYSIS

Following solicitation for project proposals from 21 firms, a total of seven proposals were received. The proposals were evaluated by a team of three, including staff from Mojave Water Agency. Based on overall approach to the project, staff qualifications and schedule, Todd Engineers was selected as the most qualified firm for the project. Subsequent to the award it was envisioned that some of the tasks may need additional effort or could be enhanced to provide a better product for Bighorn Desert View Water Agency. It was also determined that a grant balance remained after the initial award and that Mojave Water Agency was amenable to funding the match for additional effort toward the Groundwater Management Plan and site Feasibility Study.

The Change Order and revised scope of work is attached. The Scope of Work outlined in Change Order No. 1 results in \$53,340 of additional work primarily related to the deletion of one monitoring well in exchange for an enhanced groundwater flow model, groundwater quality testing, additional project management, technical and legal support for the Groundwater Management Plan, and additional stakeholder/public outreach. Staff recommends that the Board approve Change Order No. 1 with the stipulation that Mojave Water Agency approve the revised scope of work and authorize payment of the 45% match funding required by the EPA STAG grant, approximately \$53,340. The Agency will need to be responsible for that portion related to Agency legal fees, \$7,425, which is associated with the development of the Groundwater Management Plan document.

PRIOR RELEVANT BOARD ACTION(S)

11/17/2009 Motion to authorize execution of Professional Services Agreement with Todd Engineers in an amount not to exceed \$408,463.45 for Project Management, Permitting, Hydrogeologic Feasibility Study and Groundwater Management Plan for the Reche Recharge Facility.

11/5/2009 Finance/Public Relations/Education/Personnel Standing Committee Report on Status of Request for Proposals for Ames/Means Reche Basin Groundwater Recharge Facility.

8/25/2009 Motion to authorize staff to execute Memorandum of Understanding by and between Mojave Water Agency and Bighorn Desert View Water Agency regarding Project Management of Phases for Phase I and II Planning and Design of the Ames-Means Recharge Project (aka Reche Recharge Facility) and accepting financial participation from Mojave Water Agency in the amount of \$279,495.

7/28/2009 Draft financial participation MOU with MWA presented to Board for information and discussion only.

1/27/2009 R09-03 Resolution of Board of Directors approving the Guidance Document for the Development of a Groundwater Management Plan and Construction of an Artificial Recharge Project in the Reche Groundwater Subbasin of the Ames Valley Groundwater Basin.

1/15/2009 PLEGS Planning/Legislative /Engineering/Grant /Security Standing Committee recommending the "Strawman" Guidance Document for the Development of a Groundwater Management Plan and Conjunctive Use Program for the Ames Basin be brought before the full board on January 27, 2009.

8/26/2008 Introduction of the "Strawman" Guidance Document for the Development of a Groundwater Management Plan and Conjunctive Use Program for the Ames Basin.

6/16/2008 Motion to authorize staff to seek formal partnerships with interested parties to participate financially in the Agency's EPA Grant Program – Water Infrastructure Restoration Program CEQA/NEPA documentation.

5/27/2008 Authorize issuance of Change Order No. 1 to Candida Neal, AICP in the amount of \$32,250.48 for completion of Water Infrastructure Restoration Program CEQA/NEPA documentation which includes Reche Recharge Project.

1/22/2008 Review and discuss the status and history of monitoring of the Reche Subbasin pursuant to the Ames Valley Water Basin Agreement (aka Stipulated Judgement)

9/30/2007 Motion to authorize staff to execute a Professional Services Agreement with Candida Neal, AICP in the amount of \$44,193.24 for preparation of the Water Infrastructure Program CEQA/NEPA documentation which includes Reche Recharge Project

9/18/2007 Board Workshop to discuss the results of the Basin Conceptual Model and Assessment of Water Supply and Demand for the Ames Valley, Johnson Valley, and Means Valley Groundwater Basins by Kennedy/Jenks/Todd, LLC.

4/24/2007 Motion to accept the Basin Conceptual Model and Assessment of Water Supply and Demand for the Ames Valley, Johnson Valley, and Means Valley Groundwater Basins by Kennedy/Jenks/Todd, LLC.

4/24/2007 Motion to accept Water Master Plan Report by Don Howard Engineering which includes recharge facilities.

12/20/2006 06R-18 Resolution of the Board of Directors of the Bighorn-Desert View Water Agency declaring its intention to draft a Groundwater Management Plan for the Ames/Mean/Johnson Valley Groundwater Basins

3/28/2006 06R-04 Resolution authorizing General Manager to enter Grant Agreement of \$477,000.

Director Larson voiced no objections and consented with this authorization to proceed.

Director Burkhart asked if the Board had any further comments, there were none. She then opened for public comment, but there also were none.

The following action was taken:

**MOTION NO. 10-004
APPROVED ISSUANCE OF CHANGE ORDER NO. 1 FOR TODD ENGINEERS**

Director McBride motioned to authorize the General Manager to execute Change Order No. 1 to Todd Engineers in an amount not to exceed \$53,340.00 for additional services related to the Reche Recharge Project with the stipulation that Mojave Water Agency approve the revised scope of work and authorize payment of the 45% match funding required by the EPA STAG Grant, with the exception of the related legal fees, which are the responsibility of the Agency; motioned seconded by Director Coulombe, and carried (5-0).

- f. AUTHORIZATION FOR BOARD PAID ATTENDANCE AT CALAWARE OPEN GOVERNMENT WORKSHOP ON JANUARY 27, 2010 IN YUCCA VALLEY AT AN ESTIMATED COST OF \$150/PER DIRECTOR, INCLUDING PER DIEM AND REIMBURSEMENT FOR MILEAGE AND LUNCH.**

Director Oswalt commented that the seminar was free for those attending.

Director Larson believed this was a benefit to the Agency and stated that he planned to attend.

Director Burkhart said that she learned there was no reserve seating and no certificates issued for attendance.

GM West said it was her duty to make suggestions to the Board (pertaining to the legitimate method for reimbursement of expenses), but the Directors still had the option not to claim the per diem.

Since there were no further comments by the Board, Director Burkhart asked if there were any public comments, but there were none.

The following action was taken:

**MOTION NO. 10-005
APPROVAL OF PAID ATTENDANCE AT CALAWARE OPEN GOVERNMENT
WORKSHOP FOR DIRECTORS**

Director McBride motioned to authorize the paid attendance at the CalAware Open Government Workshop, January 27, 2010, in Yucca Valley at an estimated cost of



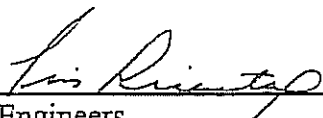
BIGHORN-DESERT VIEW WATER AGENCY AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This Amendment to Professional Services Agreement ("Amendment") is entered into on this 5th day of February, 2010, between Bighorn-Desert View Water Agency ("Agency") and Todd Engineers ("Consultant").


1. **Agreement Amended.** This Amendment applies to the Professional Services Agreement Between Bighorn-Desert View Water Agency and Todd Engineers that the parties entered into on 18th of November 2009 ("Agreement").
2. **Project Description.** Project Management, Permitting, Hydrogeologic Feasibility Study and Groundwater Management Plan in support of this conjunctive-use program known as the Ames/Means Reche Basin Groundwater Recharge Facility dated October 23, 2009.
3. **Consideration Amount.** The original amount stated in Paragraph 1.C. of the Agreement is \$408,463.45. Pursuant to Change Order No. 1, dated February 5, 2010 the Agency authorized an additional \$60,765. Total time and materials is not to exceed \$469,228.45.
4. **Revised Scope of Services.** The revisions to the Scope of Services stated in Section 1 of the Agreement includes: expand groundwater flow model, provide additional stakeholder outreach/support, technical and legal support to the Groundwater Management Plan, and groundwater sampling. All additional work described in the attached "Revised Scope of Work and Cost Estimate for Additional Services – Dated January 21, 2010" (attached).
5. **Additional Special Conditions.** Payment on invoices is to be made within 30 days of receipt by the Agency.
6. **Authorization of Amendment.** Paragraphs 12 and 34 of the Agreement expressly authorize this Amendment, which will be effective upon execution by the Consultant and the Agency.

7. **Effect of Amendment.** The terms of the Agreement that are not specifically amended above shall remain in full force and effect, and are applicable to this Amendment as though fully stated herein.
8. **Authority/Modification.** The Consultant and the Agency represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Amendment and to engage in the actions described herein. The Agreement and/or this Amendment may be modified by further written amendment. The Agency's General Manager, or designee, may execute any such further amendment on behalf of Agency.
9. **Entire Agreement.** The Agreement and this Amendment set forth the entire understanding of the Consultant and the Agency.

IN WITNESS WHERE, the parties hereto have executed this Amendment as of the day and year first written hereinabove.



Todd Engineers 2/8/2010
Date



Marina D. West, PG, Bighorn-Desert View Water Agency 2-5-2010
Date

TODD ENGINEERS

GROUNDWATER · WATER RESOURCES · HYDROGEOLOGY · ENVIRONMENTAL ENGINEERING

January 21, 2010

To: Marina West
Bighorn-Desert View Water Agency
622 S. Jemez Trail
Yucca Valley, California 92284

From: Daniel Craig, Project Manager

Subject: Revised Scope of Work and Cost Estimate for Additional Services
*Project Management, Permitting, Hydrogeologic Feasibility Study and
Groundwater Management Plan Project*

Change Order No. 1
Bighorn-Desert View Water Agency and Todd Engineers

Todd Engineers (Todd) is pleased to submit this scope of work and cost estimate for additional Professional Services in support of the Project Management, Permitting, Hydrogeologic Feasibility Study and Groundwater Management Plan Project (Project). We discussed these additional tasks during our recent conference calls.

The following lists the proposed additional tasks, provides a concise scope of work, and presents a cost estimate for each task. Our estimated costs, including labor hours and subcontractor services by task, are also summarized in the attached Table 1.

REQUESTED NEW FUNDING

1. **Provide Associated Project Management Support [Project Task 1]** – Todd will provide additional project management support for expanded Tasks 2.1, 3.4, 3.5, 4.2, and new Tasks 5.1 and 6.1, described below. The estimated additional cost for this Task is \$12,273.
2. **Sample Groundwater Quality [Project Task 3.5]** – After well development, Todd will sample monitoring well MWV-1 located adjacent to the proposed recharge basin and analyze the sample for standard drinking water quality parameters, including general minerals and major cations and anions, additional metals, uranium, radium, and strontium, gross alpha and beta radiation. The estimated additional cost for this Task is \$7,054.

3. ***Provide Additional Technical and Legal Support for MOU and Water Agreement Amendment [Project Task 4.2]*** – Todd and Kennedy/Jenks will provide additional technical support for the MOU and Water Agreement Amendment. Mr. Lynn Takaichi will assist Bighorn during additional strategy meetings plus conference calls and meetings with Hi-Desert and the County. Todd will subcontract Susan Trager, Esq., who will review and provide input to the MOU and draft and final amendments to the water agreement. Ms. Trager anticipates participating in several meetings and in significant negotiations with Hi-Desert that may be necessary to develop an Amendment acceptable to both parties. Fees for Ms. Trager's legal support are anticipated to be around \$15,000. Total additional costs for this Task are \$30,634.
4. ***Support Stakeholder/Public Outreach [New Task 6.1]*** – If requested, Todd Engineers and/or Kennedy/Jenks Consultants (Mr. Takaichi) will attend up to two public meetings in support of the Memorandum of Understanding (MOU) and Amendment to the Water Agreement.

Todd will also attend up to two meetings at the US Environmental Protection Agency in support of Bighorn's successful completion of the Funding Grant deliverables (CEQA/NEPA documents, recharge feasibility study, and groundwater management plan). The total estimated cost for this Task is \$14,481.

TASK BUDGET TRANSFER

5. ***Delete Optional Third Monitoring Well MW-3 [Project Task 3.1B] and Expand Groundwater Flow Model [Project Task 3.4]*** – Per our discussions at this time we recommend installing only two of the three monitoring wells scoped in our original proposal

and Contract. The third monitoring well MW-3 was originally proposed as an optional task and funded in the amount of \$54,620. In lieu of this well we propose expanding the MODFLOW model to better assess recharge feasibility, Reche groundwater sub-basin yield, and future production well performance. The MODFLOW model area will be expanded to include all of Bighorn's production wells in the Pipes and Reche Subbasins. Expansion of the model area to include the Pipes Barrier and Johnson Valley Fault and calibration of the model to water levels on both sides of the barrier and fault will allow estimation of the rate of subsurface inflow from the Pipes to the Reche Subbasin. This will be extremely beneficial in developing an accurate estimate of sustainable yield of the Reche Subbasin and supporting the GWMP and Water Agreement Amendment. Flow simulation of Bighorn production wells #2/3, #4 and #8 in the Pipes Subbasin and Bighorn Wells #6/7 and #9, along with County Service Area Wells #1/2 and #3 and Hi-Desert Well #24 in the Reche subbasin will be useful in managing and optimizing Bighorn's ongoing well field operations.

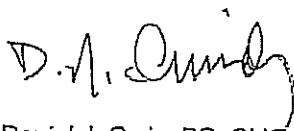
The estimated additional costs for this expanded Task are \$53,340.

As an optional subtask of the groundwater flow modeling we also will calculate evaporative losses using a free-surface model based on the assumption that the spreading ground is an exposed water body during the 5-month recharge period and will use a soil moisture model with representative reference evapotranspiration for additional soil evaporation losses. The estimated additional costs for this expanded Task are \$1,280.

The total additional funding requested for the work described above is \$64,443. Todd will perform this work in accordance with the existing terms and conditions of our Contract dated November 20, 2009.

If you have any questions or need additional information, please do not hesitate to contact me at the phone number below.

Sincerely,



Daniel J. Craig, PG, CHG
Project Manager

Attachment:

Table 1. Project Fee Estimate for Change Order #1



Todd Engineers and Kennedy/Jenks Consultants

Project Management, Permitting, Hydrogeologic Feasibility Study, and Groundwater Management Plan												
Task	Task Description	Start Date	End Date	Duration (Days)	Resources	Cost (\$)	Progress (%)	Notes	Dependencies	Deliverables	Owner	Reviewer
Task 1 - Finalize Approved Project Management Report												
1	Task 1.1 - Expanded Groundwater Flow Model	2/1	2/15	15	1	10,000	100			Expanded Model	1	1
Task 2 - 3D Finite Element Analysis												
2	Task 2.1 - Finalize Additional Technical and Legal Support for ADO and Water Agreement	2/1	2/15	15	1	10,000	100			Finalized Support	1	1
Task 3 - Report Preparation												
3	Task 3.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 4 - Report Preparation												
4	Task 4.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 5 - Report Preparation												
5	Task 5.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 6 - Report Preparation												
6	Task 6.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 7 - Report Preparation												
7	Task 7.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 8 - Report Preparation												
8	Task 8.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 9 - Report Preparation												
9	Task 9.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 10 - Report Preparation												
10	Task 10.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 11 - Report Preparation												
11	Task 11.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 12 - Report Preparation												
12	Task 12.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 13 - Report Preparation												
13	Task 13.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 14 - Report Preparation												
14	Task 14.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 15 - Report Preparation												
15	Task 15.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 16 - Report Preparation												
16	Task 16.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 17 - Report Preparation												
17	Task 17.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 18 - Report Preparation												
18	Task 18.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 19 - Report Preparation												
19	Task 19.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 20 - Report Preparation												
20	Task 20.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 21 - Report Preparation												
21	Task 21.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 22 - Report Preparation												
22	Task 22.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 23 - Report Preparation												
23	Task 23.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 24 - Report Preparation												
24	Task 24.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 25 - Report Preparation												
25	Task 25.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 26 - Report Preparation												
26	Task 26.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 27 - Report Preparation												
27	Task 27.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 28 - Report Preparation												
28	Task 28.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 29 - Report Preparation												
29	Task 29.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 30 - Report Preparation												
30	Task 30.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 31 - Report Preparation												
31	Task 31.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 32 - Report Preparation												
32	Task 32.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 33 - Report Preparation												
33	Task 33.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 34 - Report Preparation												
34	Task 34.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 35 - Report Preparation												
35	Task 35.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 36 - Report Preparation												
36	Task 36.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 37 - Report Preparation												
37	Task 37.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 38 - Report Preparation												
38	Task 38.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 39 - Report Preparation												
39	Task 39.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 40 - Report Preparation												
40	Task 40.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 41 - Report Preparation												
41	Task 41.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 42 - Report Preparation												
42	Task 42.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 43 - Report Preparation												
43	Task 43.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 44 - Report Preparation												
44	Task 44.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 45 - Report Preparation												
45	Task 45.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 46 - Report Preparation												
46	Task 46.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 47 - Report Preparation												
47	Task 47.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 48 - Report Preparation												
48	Task 48.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 49 - Report Preparation												
49	Task 49.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 50 - Report Preparation												
50	Task 50.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 51 - Report Preparation												
51	Task 51.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 52 - Report Preparation												
52	Task 52.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 53 - Report Preparation												
53	Task 53.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 54 - Report Preparation												
54	Task 54.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 55 - Report Preparation												
55	Task 55.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 56 - Report Preparation												
56	Task 56.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 57 - Report Preparation												
57	Task 57.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 58 - Report Preparation												
58	Task 58.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 59 - Report Preparation												
59	Task 59.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 60 - Report Preparation												
60	Task 60.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 61 - Report Preparation												
61	Task 61.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 62 - Report Preparation												
62	Task 62.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 63 - Report Preparation												
63	Task 63.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 64 - Report Preparation												
64	Task 64.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 65 - Report Preparation												
65	Task 65.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 66 - Report Preparation												
66	Task 66.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 67 - Report Preparation												
67	Task 67.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 68 - Report Preparation												
68	Task 68.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 69 - Report Preparation												
69	Task 69.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 70 - Report Preparation												
70	Task 70.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 71 - Report Preparation												
71	Task 71.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 72 - Report Preparation												
72	Task 72.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 73 - Report Preparation												
73	Task 73.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 74 - Report Preparation												
74	Task 74.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 75 - Report Preparation												
75	Task 75.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 76 - Report Preparation												
76	Task 76.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 77 - Report Preparation												
77	Task 77.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 78 - Report Preparation												
78	Task 78.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 79 - Report Preparation												
79	Task 79.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 80 - Report Preparation												
80	Task 80.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 81 - Report Preparation												
81	Task 81.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 82 - Report Preparation												
82	Task 82.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 83 - Report Preparation												
83	Task 83.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 84 - Report Preparation												
84	Task 84.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 85 - Report Preparation												
85	Task 85.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 86 - Report Preparation												
86	Task 86.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 87 - Report Preparation												
87	Task 87.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 88 - Report Preparation												
88	Task 88.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 89 - Report Preparation												
89	Task 89.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 90 - Report Preparation												
90	Task 90.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 91 - Report Preparation												
91	Task 91.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 92 - Report Preparation												
92	Task 92.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 93 - Report Preparation												
93	Task 93.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 94 - Report Preparation												
94	Task 94.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 95 - Report Preparation												
95	Task 95.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 96 - Report Preparation												
96	Task 96.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 97 - Report Preparation												
97	Task 97.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 98 - Report Preparation												
98	Task 98.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 99 - Report Preparation												
99	Task 99.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 100 - Report Preparation												
100	Task 100.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 101 - Report Preparation												
101	Task 101.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 102 - Report Preparation												
102	Task 102.1 - Report Preparation	2/1	2/15	15	1	10,000	100			Report	1	1
Task 10												

॥ श्रीगणेशाय नमः ॥

#1,280

**BACKUP MATERIALS
FOR
TODD ENGINEERS
PROFESSIONAL SERVICES AGREEMENT
CHANGE ORDER NO. 2**

**BIGHORN DESERT VIEW WATER AGENCY STANDING COMMITTEE
PLANNING/ENGINEERING/LEGISLATIVE/GRANT
AGENDA ITEM SUBMITTAL**

Meeting Date: October 20, 2010

To: Planning/Engineering/Legislative/Grant
Standing Comm. of Board of Directors

Budgeted: Yes

Budgeted Amount: 45% participation
funded by MOU with Mojave Water Agency

Cost: CO2 is \$84,400

Funding Source: EPA Grant Funds 55%
/BDVWA match 45%

From: Marina D. West

General Counsel Approval: N/A

CEQA Compliance: Yes

Subject: Water Infrastructure Restoration Program/EPA STAG Grant: Todd Engineers Change Order No. 2 for Feasibility Study, Project Management and Groundwater Management Plan Services Related to the in the Amount of \$63,900 and Bucknam & Associates Change Order No. 1 for Grant Administrative Services through November 30, 2011 in the amount of \$20,500.

SUMMARY

The EPA Grant Work Plan includes tasks to complete a Groundwater Management Plan and Feasibility Study as well as administration of the grant.

Two Change Orders are necessary at this time to cover anticipated out-of-scope costs and unforeseen activities under the grant. These are for Todd Engineers and Bucknam & Associates.

Regarding Todd Engineers, the Bureau of Land Management allowed access to their property to construct two monitoring wells for the Feasibility Study. However, BLM required on-site protections for the desert tortoise not envisioned in the original scope of work. A new task will be added which allows the Agency to move from the Principles of Agreement to a formal Memorandum of Understanding for the governance of the Ames/Reche facility. Staff proposes to utilize special counsel James Markman who has no conflict of interest with any of the parties to facilitate this effort. In addition, difficulties encountered during drilling led to time extensions not previously envisioned. Lastly, there was a clerical error that needs to be reconciled with respect to Change Order No. 1. The total amount of Change Order No. 2 is \$63,900.

The original grant was set to expire on November 30, 2010. However, staff negotiated a one year extension until November 30, 2011. Change Order No. 1 to Bucknam & Associates is for an additional year of grant administrative services. The total amount of Change Order No. 1 is \$20,500.

Staff anticipates that Mojave Water Agency Board of Directors will approve the request for 45% financial participation for these Change Orders at a meeting in November 2010.

RECOMMENDATION

That the Board take the following action:

1. Authorize General Manager to execute Change Order No. 2 with Todd Engineers for Water Infrastructure Restoration Program/ EPA STAG Feasibility Study, Project Management and Groundwater Management Plan Services Related to the Ames/Reche Recharge Facility, in the Amount of \$63,900; and
2. Authorize General Manager to execute Change Order No. 1 with Bucknam & Associates for Water Infrastructure Restoration Program/ EPA STAG grant administrative services for the period November 30, 2010 through November 30, 2011 in the amount of \$20,500.

BACKGROUND/ANALYSIS

Todd Engineers - Change Order No. 2:

Task 3.1 covers additional staff time for field activities related to the construction of the two monitoring wells. Essentially, projections regarding the timeline to complete the drilling effort were underestimated as difficult drilling conditions were encountered. In addition, permission to construct the monitoring wells was obtained from Bureau of Land Management after issuance of the Todd scope of work. In the end, BLM required BDVWA to strictly comply with a written tortoise monitoring and awareness training program for all on-site personnel and a physical barrier (tortoise fencing) which led to this out-of-scope effort.

Task 3.4 covers acquisition of customer usage data from BDVWA's database through a third party software programmer (Datastream). This data was essential to the development of the groundwater flow model.

Task 3.6 covers direct costs for water quality samples obtained from MW-2 which were not included in the original scope of work.

Task 4.2 covers legal support for the Groundwater Management Plan. Now that the Principles of Agreement has been drafted and agreed upon its terms will need to be converted to a more formal document which will serve as both an MOU for the participating parties as well as the basis for approaching the court regarding an amendment to the "Ames Agreement" between HDWD and BDVWA. Staff has selected Mr. James Markman of Richards/Watson/Gershon to facilitate this process. Mr. Markman will be contracted as special counsel to BDVWA through SmithTrager LLP who has the contractual relationship with Todd Engineers for this task. The important thing to note is that BDVWA is the "lead agency" on this project and therefore financially responsible. However, Mr. Markman has specifically been chosen not only because of his relevant experience in the subject matter but also because he has no conflict of interest with any of the involved parties. Approval of the

formal agreement will require input from the representative legal counsel from the various entities and staff has received written approval from the participants regarding the selection of Mr. Markman to complete this particular task.

Lastly, there is an accounting error that needs to be reconciled with respect to Change Order No. 1. The total amount of Change Order No. 1 was \$64,443 however; the executed BDVWA Amendment to the Professional Services Agreement incorrectly noted the amount to be \$60,765 which was short by \$3,678.

Therefore, the total amount of financial participation from BDVWA, requested from MWA, for the Todd contract is: \$28,755 (45% of \$63,900).

Bucknam & Associates – Change Order No. 1:

Efforts to obtain a long-term lease from BLM for the Ames/Reche recharge site depend on the outcome of the NEPA (National Environmental Policy Act) process. Processing of the Right of Way application has taken much longer than anticipated. In addition, tortoises are present in the vicinity of the proposed recharge facility as well as some California sensitive plant species. At this point, we are convinced that various "take permits" will be required from both US Fish and Wildlife Service and California Department of Fish and Game. We also knew these permits could not be executed prior to the original EPA STAG deadline of November 30, 2010. It is because of these requirements that BDVWA requested and was granted a one year extension on the grant. The new expiration date is November 30, 2011. Therefore, a Change Order is needed for administration of the grant for the one year extension period.

The total amount of financial participation from BDVWA, requested from MWA, for the Bucknam & Associates contract is: \$9,225 (45% of \$20,500).

Staff is seeking funding participation for the grant match from Mojave Water Agency and MWA staff has agendized this matter for consideration by their Personnel, Finance & Security Committee in November with full Board consideration scheduled thereafter.

Staff recommends the Board approved Change Order No. 2 to Todd Engineers in the amount of \$63,900 and Change Order No. 1 to Bucknam & Associates in the amount of \$20,500.

PRIOR RELEVANT BOARD ACTION(S)

8/24/2010 Authorize General Manager to execute Change Order No. 3 with Candida Neal, AICP for CEQA/NEPA services related to the Water Infrastructure Restoration Program, specifically the Ames/Means Reche Recharge Facility, in the amount of \$8,260.

6/29/2010 Resolution No. 10R-04 Approving the Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program and Pipeline Installation/Replacement Program pursuant to California Environmental Quality Act (CEQA) and state of California CEQA guidelines.

6/15/2010 BOD Public Hearing: Notice of Intent to Adopt a Mitigated Negative Declaration (MND) Pertaining to the Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program; and Pipeline Installation/Replacement Project

3/23/2010 BOD Review of Draft "Principles of Agreement" between Bighorn Desert View Water Agency, Hi Desert Water District, County Special Districts (W-1 and W-4) and Mojave Water Agency for the Reche Groundwater Subbasin.

3/19/2010 PLEGS Committee Review of Draft "Principles of Agreement" between Bighorn Desert View Water Agency, Hi Desert Water District, County Special Districts (W-1 and W-4) and Mojave Water Agency for the Reche Groundwater Subbasin.

2/18/2010 PLEGS Committee California Environmental Quality Act (CEQA) and Water Master Plan Update

1/26/2010 Overview of the Ames Valley Water Basin Agreement

1/26/2010 Board Authorization of Change Order No. 1 to Todd Engineers for an amount not to exceed \$53,340 for the Project Management, Permitting, Hydrogeologic Feasibility Study and Groundwater Management Plan for the Ames/Reche Project.

11/17/2009 Board authorization of Change Order No. 2 to Candida Neal, AICP for an amount not to exceed \$37,842.90 for CEQA/NEPA services related to the Water Infrastructure Improvement Program.

11/5/2009 Finance/Public Relations/Education/Personnel Standing Committee Report on status of Water Infrastructure Restoration Program Pending Change Order No. 2 to Candida Neal, AICP for CEQA/NEPA services specifically related to the Ames/Means Reche Recharge Facility

8/25/2009 Motion to authorize staff to execute Memorandum of Understanding by and between Mojave Water Agency and Bighorn Desert View Water Agency regarding Project Management of Phases for Phase I and II Planning and Design of the Ames-Means Recharge Project (aka Reche Recharge Facility) and accepting financial participation from Mojave Water Agency in the amount of \$279,495.

7/28/2009 Draft financial participation MOU with MWA presented to Board for information and discussion only.

1/27/2009 R09-03 Resolution of Board of Directors approving the Guidance Document for the Development of a Groundwater Management Plan and Construction of an Artificial Recharge Project in the Reche Groundwater Subbasin of the Ames Valley Groundwater Basin.

1/15/2009 PLEGS Planning/Legislative /Engineering/Grant /Security Standing Committee recommending the "Strawman" Guidance Document for the Development of a Groundwater Management Plan and Conjunctive Use Program for the Ames Basin be brought before the full board on January 27, 2009.

8/26/2008 Introduction of the "Strawman" Guidance Document for the Development of a Groundwater Management Plan and Conjunctive Use Program for the Ames Basin.

6/16/2008 Motion to authorize staff to seek formal partnerships with interested parties to participate financially in the Agency's EPA Grant Program – Water Infrastructure Restoration Program CEQA/NEPA documentation.

5/27/2008 Authorize issuance of Change Order No. 1 to Candida Neal, AICP in the amount of \$32,250.48 for completion of Water Infrastructure Restoration Program CEQA/NEPA documentation which includes Reche Recharge Project.

1/22/2008 Review and discuss the status and history of monitoring of the Reche Subbasin pursuant to the Ames Valley Water Basin Agreement (aka Stipulated Judgement)

9/30/2007 Motion to authorize staff to execute a Professional Services Agreement with Candida Neal, AICP in the amount of \$44,193.24 for preparation of the Water Infrastructure Program CEQA/NEPA documentation which includes Reche Recharge Project

9/18/2007 Board Workshop to discuss the results of the Basin Conceptual Model and Assessment of Water Supply and Demand for the Ames Valley, Johnson Valley, and Means Valley Groundwater Basins by Kennedy/Jenks/Todd, LLC.

4/24/2007 Motion to accept the Basin Conceptual Model and Assessment of Water Supply and Demand for the Ames Valley, Johnson Valley, and Means Valley Groundwater Basins by Kennedy/Jenks/Todd, LLC.

4/24/2007 Motion to accept Water Master Plan Report by Don Howard Engineering which includes recharge facilities.

12/20/2006 06R-18 Resolution of the Board of Directors of the Bighorn-Desert View Water Agency declaring its intention to draft a Groundwater Management Plan for the Ames/Mean/Johnson Valley Groundwater Basins

3/28/2006 06R-04 Resolution authorizing General Manager to enter Grant Agreement of \$477,000.

Commissioner: Director Burkhart
Alternate: Director Larson

d. ASSIGNMENT OF AD HOC COMMITTEES AND AGENCY REPRESENTATIVES

Board President Burkhart proposed, with Board consensus, three Ad Hoc Committees (two existing and one newly created) and briefly outlined the duties of each.

Director Burkhart next announced the following appointments:

- Ames/Means

Chairperson: Director Burkhart
Member: Director McBride

- Legislation/Grants

Chairperson: Director Burkhart
Member: Director Coulombe

- Financial Research:

Chairperson: Director Coulombe
Member: Director Oswalt

e. AUTHORIZATION OF CHANGE ORDER NO.1 TO TODD ENGINEERS FOR AN AMOUNT NOT TO EXCEED \$53,340.00

GM West gave a brief presentation of the "Principles of Agreement" with Todd Engineers; summarizing the services performed to date, and the additional work required, which resulted in the Change Order pending Board action.

GM remarks noted:

- Mojave Water Agency to approve revised scope of work and authorize 45% match funding;
- Agency responsible for payment of related legal expenses, anticipated to be \$7,425.00;
- CEQA covers first 5 years of Water Master Plan; and
- Provides a new way of managing the basin.

Directors McBride and Burkhart made some favorable comments about the benefits of this project to the Agency, customers, and public.

Director Burkhart added that a vast amount of the project funding came from grant money.

Director Larson voiced no objections and consented with this authorization to proceed.

Director Burkhart asked if the Board had any further comments, there were none. She then opened for public comment, but there also were none.

The following action was taken:

**MOTION NO. 10-004
APPROVED ISSUANCE OF CHANGE ORDER NO. 1 FOR TODD ENGINEERS**

Director McBride motioned to authorize the General Manager to execute Change Order No. 1 to Todd Engineers in an amount not to exceed \$53,340.00 for additional services related to the Reche Recharge Project with the stipulation that Mojave Water Agency approve the revised scope of work and authorize payment of the 45% match funding required by the EPA STAG Grant, with the exception of the related legal fees, which are the responsibility of the Agency; motioned seconded by Director Coulombe, and carried (5-0).

- f. AUTHORIZATION FOR BOARD PAID ATTENDANCE AT CALAWARE OPEN GOVERNMENT WORKSHOP ON JANUARY 27, 2010 IN YUCCA VALLEY AT AN ESTIMATED COST OF \$150/PER DIRECTOR, INCLUDING PER DIEM AND REIMBURSEMENT FOR MILEAGE AND LUNCH.**

Director Oswalt commented that the seminar was free for those attending.

Director Larson believed this was a benefit to the Agency and stated that he planned to attend.

Director Burkhart said that she learned there was no reserve seating and no certificates issued for attendance.

GM West said it was her duty to make suggestions to the Board (pertaining to the legitimate method for reimbursement of expenses), but the Directors still had the option not to claim the per diem.

Since there were no further comments by the Board, Director Burkhart asked if there were any public comments, but there were none.

The following action was taken:

**MOTION NO. 10-005
APPROVAL OF PAID ATTENDANCE AT CALAWARE OPEN GOVERNMENT
WORKSHOP FOR DIRECTORS**

Director McBride motioned to authorize the paid attendance at the CalAware Open Government Workshop, January 27, 2010, in Yucca Valley at an estimated cost of




BIGHORN-DESERT VIEW WATER AGENCY AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This Amendment to Professional Services Agreement ("Amendment") is entered into on this 26th day of October, 2010, between Bighorn-Desert View Water Agency ("Agency") and Todd Engineers ("Consultant").

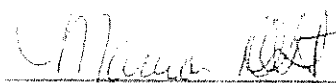
1. **Agreement Amended.** This Amendment applies to the Professional Services Agreement between Bighorn-Desert View Water Agency and Todd Engineers dated February 18th of November 2009 ("Agreement").
2. **Project Description.** Project Management, Permitting, Hydrogeologic Feasibility Study and Groundwater Management Plan in support of this conjunctive-use program known as the Ames Means Reche Basin Groundwater Recharge Facility dated October 23, 2009.
3. **Consideration Amount.** The original amount stated in Paragraph 1.C. of the Agreement is \$408,463.45. Pursuant to Change Order No. 1, dated February 5, 2010 the Agency authorized an additional \$60,765. Pursuant to this Change Order No. 2, Agency authorizes an additional \$58,415.05. This Change Order No. 2, is to remedy a deficiency between the original Contract and Change Order No. 1, adding an additional \$3,675.00. Total time and materials is now \$527,643.50 (\$431,521.50).
4. **Revised Scope of Services.** The revisions to the Scope of Services stated in Section 1 of the Agreement includes: additional time to install monitoring wells, tortoise awareness training and tortoise fencing per BLM directive, data acquisition for groundwater flow model, additional groundwater sampling, and additional legal support to Groundwater Management Plan Memorandum of Understanding. All additional work described in the attached "Revised Scope of Work and Cost Estimate for Additional Services Revised Addendum – Dated October 27, 2010" (attached).
5. **Additional Special Conditions.** Payment on invoices is to be made within 30 days of receipt by the Agency.

6. **Authorization of Amendment.** Paragraphs 12 and 34 of the Agreement expressly authorize this Amendment, which will be effective upon execution by the Consultant and the Agency.
7. **Effect of Amendment.** The terms of the Agreement that are not specifically amended above shall remain in full force and effect, and are applicable to this Amendment as though fully stated herein.
8. **Authority/Modification.** The Consultant and the Agency represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Amendment and to engage in the actions described herein. The Agreement and/or this Amendment may be modified by further written amendment. The Agency's General Manager, or designee, may execute any such further amendment on behalf of Agency.
9. **Entire Agreement.** The Agreement and this Amendment, together with the entire understanding of the Consultant and the Agency.

IN WITNESS WHERE, the parties hereto have executed this Amendment as of the day and year first written hereinabove



Todd Engineers 12/2/2010
Date



Maria D. West, PG, Bighorn-Desert View Water Agency 10/30/2010
Date

TODD ENGINEERS

CALIFORNIA WATER • WATER RESOURCES • HYDROGEOLOGY • ENVIRONMENTAL ENGINEERING

October 27, 2010

To: Marina West
Bighorn-Desert View Water Agency
622 S. Jemez Trail
Yucca Valley, California 92284

From: Daniel Craig, Project Manager

Subject: Revised Scope of Work and Cost Estimate for Additional Services
*Project Management, Permitting, Hydrogeologic Feasibility Study and
Groundwater Management Plan Project*

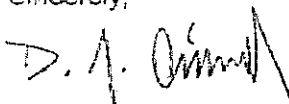
Revised Addendum to Change Order No. 2
Bighorn-Desert View Water Agency and Todd Engineers

Todd Engineers (Todd) is pleased to submit this revised addendum to Change Order No. 2 for additional Professional Services in support of the Project Management, Permitting, Hydrogeologic Feasibility Study and Groundwater Management Plan Project (Project).

In our October 15, 2010 letter, we requested additional funding of \$60,221.05 for Tasks B-1, B-2, B-3, B-4 and A-2. However, our cost estimate including an incorrect expense fee rate of 5 percent. In accordance with our Project Contract the correct expense fee is 10 percent. Accordingly, the total additional funding requested for revised Change Order No. 2 is \$58,415.05. Todd will perform this work in accordance with the existing terms and conditions of our Contract dated November 20, 2009.

If you have any questions or need additional information, please do not hesitate to contact me at the phone number below.

Sincerely,



Daniel J. Craig, PG, CHG
Project Manager

Attachment: Table 1. Revised Project Fee Estimate for Change Order #2



Table 1. Revised Project Fee Estimate for Chemical Order No. 2 10/20/2010 Todd Engineers and Kennedy/Jenks Consultants

Project Management, Permitting, Hydrogeologic Feasibility Study, and Groundwater Management Plan													
Classification	Project Manager	Principal Geologist	Senior Geologist	Geological Engineer	Associate Geologist	Engineer/Scientist	Assistant Engineer/Scientist	Permitting Engineer	Cost Estimator	Day	Geology	Total Labor Hours	Total Cost
2010 Hourly Rates	\$185	\$200	\$225	\$250	\$275	\$300	\$325	\$350	\$375				
Task 1.1 - Meeting with local officials to discuss the study for permit (includes meeting)	1	1	1	1	1	1	1	1	1	1	1	1	1
Task 1.2 - Groundwater Flow Model (includes model building and water consumption data)	1	1	1	1	1	1	1	1	1	1	1	1	1
Task 1.3 - Sample Groundwater Quality (includes groundwater quality sampling at each MWFA well)	1	1	1	1	1	1	1	1	1	1	1	1	1
Task 1.4 - Provide Report for MCH and Water Management	1	1	1	1	1	1	1	1	1	1	1	1	1
Total Estimated Costs CO No. 2	4	4	4	4	4	4	4	4	4	4	4	4	4

TODD ENGINEERS

GROUNDWATER · WATER RESOURCES · HYDROGEOLOGY · ENVIRONMENTAL ENGINEERING

December 2, 2010

TRANSMITTAL

To: Joanne Keiter, Bighorn-Desert View Water Agency
622 S. Jemez Trail
Yucca Valley, California 93384-1400

From: Daniel Craig, Project Manager

Subject: Transmittal of Executed Change Order No. 2 to the
Professional Services Agreement between
Bighorn-Desert View Water Agency and Todd Engineers

Enclosed please an executed copy of Change Order No. 2 to the Professional Services Agreement between Bighorn-Desert View Water Agency and Todd Engineers for the Project Management, Permitting, Hydrogeologic Feasibility Study and Groundwater Management Plan Project.

If you have any questions or need additional information please do not hesitate to contact me at the phone number below.

**BIGHORN DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: December 16, 2010

To: Planning/Engineering/Legislative/Grant
Standing Comm. of Board of Directors

Budgeted: Yes

Budgeted Amount: 45% participation
funded by MOU with Mojave Water Agency

Cost: CO3 is \$8,350

Funding Source: EPA Grant Funds 55%
/BDVWA match 45%

From: Marina D. West

General Counsel Approval: N/A

CEQA Compliance: Yes

Subject: Change Order No. 4 to Candida Neal, AICP for CEQA/NEPA Services Related to the Water Infrastructure Restoration Program, Specifically the Ames/Means Reche Recharge Facility, in the Amount of \$8,350

SUMMARY

Change Order No. 4 under the Professional Services Agreement (PSA) with Candida Neal, AICP covers final costs associated with submittal of a NEPA (National Environmental Policy Act) document to the Bureau of Land Management in consideration of our application to construct, operate and maintain the Ames/Reche Spreading Grounds Project on federal lands in the Pipes Wash.

These out of scope tasks are specifically related to the biological monitoring required during the drilling operations as well as preparation of the Biological Assessment to the application and final drafting of the full NEPA document.

The total amount of the change order is \$8,350. This change order will be funded by the EPA STAG grant (55%) alongside the 45% match from Mojave Water Agency as the grant funds dedicated to this Task will have been expended with this action. The remaining grant funds have been allocated to the Johnson Valley Hydrogeologic Investigation.

RECOMMENDATION

That the Committee review Change Order No. 4 with Candida Neal, AICP for CEQA/NEPA services related to the Water Infrastructure Restoration Program, specifically the Ames/Means Reche Spreading Grounds Project, in the amount of \$8,350 and to direct staff to move the item to the full board for further consideration and approval.

BACKGROUND/ANALYSIS

The attached proposal dated December 8, 2010 provides further information on the scope of services.

PRIOR RELEVANT BOARD ACTION(S)

6/29/2010 Resolution No. 10R-04 Approving the Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program and Pipeline Installation/Replacement Program.

6/15/2010 BOD Public Hearing: Notice of Intent to Adopt a Mitigated Negative Declaration (MND) Pertaining to the Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program; and Pipeline Installation/Replacement Project

2/18/2010 PLEGS Committee California Environmental Quality Act (CEQA) and Water Master Plan Update

11/17/2009 Board authorization of Change Order No. 2 to Candida Neal, AICP for an amount not to exceed \$37,842.90 for CEQA/NEPA services related to the Water Infrastructure Improvement Program.

8/25/2009 Motion to authorize staff to execute Memorandum of Understanding by and between Mojave Water Agency and Bighorn Desert View Water Agency regarding Project Management of Phases for Phase I and II Planning and Design of the Ames-Means Recharge Project (aka Reche Recharge Facility) and accepting financial participation from Mojave Water Agency in the amount of \$279,495.

5/27/2008 Authorize issuance of Change Order No. 1 to Candida Neal, AICP in the amount of \$32,250.48 for completion of Water Infrastructure Restoration Program CEQA/NEPA documentation which includes Reche Recharge Project.

9/30/2007 Motion to authorize staff to execute a Professional Services Agreement with Candida Neal, AICP in the amount of \$44,193.24 for preparation of the Water Infrastructure Program CEQA/NEPA documentation which includes Reche Recharge Project

3/28/2006 06R-04 Resolution authorizing General Manager to enter Grant Agreement of \$477,000 (EPA STAG).

CANDIDA NEAL, AICP
A LAND USE AND ENVIRONMENTAL PLANNING CONSULTING FIRM

114 N. INDIAN HILL BLVD # S // P. O. BOX 1978
CLAREMONT, CALIFORNIA 91711

P: 909 626 9958 // F: 909 626 9950

December 8, 2010

Marina West, General Manager
BIGHORN-DESERT VIEW WATER AGENCY
622 S. Jemez Trail
Yucca Valley, CA 92284

**Subject: CEQA/NEPA FOR THE BIGHORN-DESERT VIEW WATER AGENCY'S
WATER INFRASTRUCTURE RESTORATION PROGRAM:
SCOPE OF WORK AND BUDGET – Surveys and Review
REVISED – December 2010**

Dear Ms. West;

Thank you for continuing to work with our firm on the preparation of the environmental studies for the Bighorn-Desert View Water Agency (BDVWA). In response to changes in the work requirements we need an additional \$8,350. The changes to our scope of work and budget funded through the EPA grant are described below:

- **Biological Surveys.** As part of the streambed alteration permit, the Department of Fish and Game has requested that a survey of the protected species. Protected species, although not considered Endangered or Threatened, are protected by State and local regulations. This additional survey will be incorporated into the Environmental Assessment. Circle Mountain Biological Consultants will be responsible for this work with oversight by our firm. The additional budget for this task is \$2,100.
- **Biological Monitoring of Well Drilling.** To collect the data for preparation of the Groundwater Management Plan and spreading grounds design, it was necessary to install two monitoring wells on Bureau of Land Management BLM property. The BLM approval included a requirement for biological monitoring services during installation of the wells and Desert tortoise awareness training for all persons on the well site. Well drilling was expected to take two weeks; however, numerous complications resulted in over four weeks of drilling. Staff tried to limit monitoring costs by fencing the drilling site. Even so, monitoring costs increased unexpectedly with the extended drilling time and the eventual requirement to relocate the drilling equipment at well site 1. Circle Mountain Biologists was responsible for this work with oversight by our firm. The additional budget for this task is \$1,000.
- **Environmental Review.** The Bureau of Land Management required BDVWA to provide a level of specificity in the project design not anticipated in the original scope of work. Their requirements resulted in a number of rewrites as well as additional technical work that exceeded the original budget. Reimbursement for this task is \$5,250.

If you have any questions or need further assistance, please do not hesitate to contact us. We look forward to completing this project.

Sincerely,



Candida Neal, AICP

**BIGHORN DESERT VIEW WATER AGENCY
AGENDA ITEM SUBMITTAL**

Meeting Date: December 16, 2010

To: Planning/Engineering/Legislative/Grant
Standing Comm. of Board of Directors

Budgeted: Yes

Budgeted Amount: 45% participation
funded by MOU with Mojave Water Agency

Cost: CO3 is \$8,350

Funding Source: EPA Grant Funds 55%
/BDVWA match 45%

From: Marina D. West

General Counsel Approval: N/A

CEQA Compliance: Yes

Subject: Change Order No. 5 to Candida Neal, AICP for CEQA/NEPA Services Related to the Water Infrastructure Restoration Program, Specifically the Ames/Means Reche Recharge Facility, in the Amount of \$8,250

SUMMARY

Candida Neal, AICP has been asked to provide a proposal, Change Order No. 5, to amend Professional Services Agreement (PSA) to prepare permits associated with the mitigation measures imposed by the California Department of Fish and Game as well as the County of San Bernardino. These permits will be required before the Bureau of Land Management can finalize our application to construct, operate and maintain the Ames/Reche Spreading Grounds Project on federal lands within the Pipes Wash.

The most critical permit will be the "Incidental Take Permit" for the desert tortoise while the County may require permits for certain plants that may be taken as a result of the project.

The total amount of the change order is \$8,250. Staff expects this change order will be reimbursed 100% by Mojave Water Agency as the EPA Grant funds for this Task were expended with the approval of Change Order No. 4.

RECOMMENDATION

That the Committee review Change Order No. 4 with Candida Neal, AICP for CEQA/NEPA services related to the Water Infrastructure Restoration Program, specifically the Ames/Means Reche Spreading Grounds Project, in the amount of \$8,350 and to direct staff to move the item to the full board for further consideration and approval.

BACKGROUND/ANALYSIS

The attached proposal dated December 3, 2010 provides further information on the scope of services.

PRIOR RELEVANT BOARD ACTION(S)

6/29/2010 Resolution No. 10R-04 Approving the Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program and Pipeline Installation/Replacement Program.

6/15/2010 BOD Public Hearing: Notice of Intent to Adopt a Mitigated Negative Declaration (MND) Pertaining to the Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program; and Pipeline Installation/Replacement Project

2/18/2010 PLEGS Committee California Environmental Quality Act (CEQA) and Water Master Plan Update

11/17/2009 Board authorization of Change Order No. 2 to Candida Neal, AICP for an amount not to exceed \$37,842.90 for CEQA/NEPA services related to the Water Infrastructure Improvement Program.

8/25/2009 Motion to authorize staff to execute Memorandum of Understanding by and between Mojave Water Agency and Bighorn Desert View Water Agency regarding Project Management of Phases for Phase I and II Planning and Design of the Ames-Means Recharge Project (aka Reche Recharge Facility) and accepting financial participation from Mojave Water Agency in the amount of \$279,495.

5/27/2008 Authorize issuance of Change Order No. 1 to Candida Neal, AICP in the amount of \$32,250.48 for completion of Water Infrastructure Restoration Program CEQA/NEPA documentation which includes Reche Recharge Project.

9/30/2007 Motion to authorize staff to execute a Professional Services Agreement with Candida Neal, AICP in the amount of \$44,193.24 for preparation of the Water Infrastructure Program CEQA/NEPA documentation which includes Reche Recharge Project

3/28/2006 06R-04 Resolution authorizing General Manager to enter Grant Agreement of \$477,000 (EPA STAG).

CANDIDA NEAL, AICP
A LAND USE AND ENVIRONMENTAL PLANNING CONSULTING FIRM

114 N. INDIAN HILL BLVD # S // P. O. BOX 1978
CLAREMONT, CALIFORNIA 91711

P: 909 626 9958 // F: 909 626 9950

December 3, 2010

Marina West, General Manager
BIGHORN-DESERT VIEW WATER AGENCY
622 S. Jemez Trail
Yucca Valley, CA 92284

**Subject: CEQA/NEPA FOR THE BIGHORN-DESERT VIEW WATER AGENCY'S
WATER INFRASTRUCTURE RESTORATION PROGRAM:
SCOPE OF WORK AND BUDGET – Biological Permitting
REVISED – December 2010**

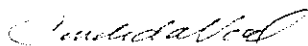
Dear Ms. West;

Thank you for continuing to work with our firm on the preparation of the environmental documents for the Bighorn-Desert View Water Agency (BDVWA). To help the agency with processing the anticipated biological permits, an additional \$8,250 is needed.

During the environmental review, impacts to protected species as well as threatened species were identified. It is now apparent that a Section 2081 permit, an Incidental Take Permit, will be required from the State of California for the Desert tortoise. In addition, several plant species are protected by the San Bernardino County Development Code. The consultant will work with the Department of Fish and Game and San Bernardino to process the appropriate permits.

If you have any questions or need further assistance, please do not hesitate to contact us. We look forward to completing this project.

Sincerely,



Candida Neal, AICP