

Bighorn-Desert View Water Agency

Board of Directors

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A Public Agency

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PLANNING/LEGISLATIVE/ENGINEERING GRANT & SECURITY COMMITTEE REGULAR MEETING AGENDA

BOARD MEETING OFFICE
1720 N. Cherokee Trail, Landers, CA 92285
Wednesday, April 3, 2013 - 9:15 a.m.

COMMITTEE MEMBERS: Director Corl-Lorono & Director Burkhart

The BDVWA Planning / Legislative / Engineering / Grant & Security Committee meeting will be conducted in strict compliance with the Brown Act. Members of the Board not assigned to this Committee who attend may do so only as observers and may not participate in the meeting.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF AGENDA

DISCUSSION AND ACTION ITEMS - The Committee and Staff will discuss the following items and provide direction to staff, if so inclined.

The Public is invited to comment on any item on the agenda during discussion of that item.

When giving your public comment, please have your information prepared, if you wish to be identified for the record then please state your name. Due to time constraints, each member of the public will be allotted three-minutes to provide their public comment.

5. 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.

6. ENGINEERING PROJECTS UPDATE

- A. Reservoirs Recoating and Johnson Valley Well 10 Reservoir Cleaning**
- B. Arc Flash Hazards Study**
- C. Equipping Pumping Plants with Generator Transfer Switches**
- D. Evaluation of Wells 2, 3 and 4**

7. UPDATE ON SB246, A BILL TO MODERNIZE THE BIGHORN-DESERT VIEW WATER AGENCY LAW UPDATE

8. AMES/RECHE GROUNDWATER STORAGE AND RECOVERY PROGRAM MEMORANDUM OF UNDERSTANDING BETWEEN BIGHORN-DESERT VIEW WATER AGENCY AND MOJAVE WATER AGENCY UPDATE

9. CONSENT ITEMS - The following is expected to be routine and non-controversial and will be acted on by the Committee members at one time without discussion, unless a member of the Public or a Committee member requests that an item be held for discussion or further action.

- a. Regular PLEGS Committee Meeting Report, February 6, 2013

10. PUBLIC COMMENT PERIOD

Any person may address the Committee on any matter within the Agency's jurisdiction on items not appearing on this agenda.

When giving your public comment, please have your information prepared, if you wish to be identified for the record then please state your name. Due to time constraints, each member of the public will be allotted three-minutes to provide their public comment. State Law prohibits the Committee from discussing or taking action on items not included on the agenda.

11. VERBAL REPORTS

- a. COMMITTEE MEMBERS' COMMENTS/REPORT
- b. GENERAL MANAGER'S REPORT

12. ITEMS FOR NEXT AGENDA

13. 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 if prior to a Regular meeting, date and time above; or in accordance with California Government Code Section 54956 this agenda has been posted not less than 24 hours if prior to a Special meeting, date and time above.

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.

Copies of these materials and other discloseable public records 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.

Internet: Once uploaded, agenda materials can also be viewed at www.bdvwva.org.

Public Comments: You may wish to submit your comments in writing to assure that you are able to express yourself adequately.

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's Secretary at 760-364-2315 during Agency business hours.



Legal, Legislative and Public Information Committee

AGENDA

**Mojave Water Agency
Board Room
13846 Conference Center Drive
Apple Valley, CA 92307**

**April 3, 2013
9:30 a.m.**

1. Approve Agenda

Agenda Packet

2. Approve Meeting Summary from the Legal/Legislative and Public Information Committee Meeting of March 6, 2013

Meeting Summary

3. Update by State Advocate of Issues at the State Level (teleconference)

Staff Report

Bill Report

4. Update by Federal Advocate of Issues at the Federal Level (teleconference)

Staff Report

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.

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LEGAL, LEGISLATIVE, AND PUBLIC INFORMATION COMMITTEE MEETING

MEETING SUMMARY March 6, 2013

CALL TO ORDER:

Chairperson Doug Shumway called the meeting to order at 9:32 a.m.

ATTENDANCE:

- ↯ Committee – Chairperson Doug Shumway, Director Beverly Lowry, and Director Mike Page
- ↯ Absent – None
- ↯ Staff – General Manager Kirby Brill; Community Liaison Officer Yvonne Hester; and Senior Administrative Assistant, Public Information Gloria Golike
- ↯ Consultants – State Advocates Ed Manning and Carolyn Jensen, KP Public Affairs and Federal Advocate Heather Hennessey, Innovative Federal Strategies, LLC joined by teleconference
- ↯ Others – Four visitors were in the audience and three were online

1. **Approve Agenda**

The agenda was agreed upon as presented.

2. **Approve Meeting Summary from the Legal, Legislative, and Public Information Committee Meeting of February 6, 2013**

The meeting summary was agreed upon as presented.

3. **Update by State Advocate of Issues at the State Level**

Ms. Jensen spoke about the recent legislative symposium meetings. She also reviewed a few of the 2013 bills that may be of interest to the Agency. She mentioned that they are still sorting through the bills for relevance. She spoke about the water bond and the State Water Resources Control Board report on the Nitrate contamination groundwater issue.

Mr. Manning briefly spoke about the Department of Water Resources issues.

4. **Update by Federal Advocate of Issues at the Federal Level**

Ms. Hennessey gave an update on federal issues since the last meeting. She mentioned that the sequester began on March 1, 2013 and she spoke about some of the effects. She also briefly mentioned the ACWA Conference and financing mechanisms for water infrastructure projects.

5. **Consider Staff Recommendation Regarding AB 145 – A Proposal to Move the State’s Drinking Water Program under the Authority of the State Water Resource Control Board**
Mr. Brill gave a brief introduction and then asked Ms. Jensen to address this bill. She gave an overview of the bill and then addressed questions. Staff recommended that the Agency take a position on this bill and oppose the bill unless amended, and the Committee agreed with the recommendation of staff.
6. **Public Information Update**
Ms. Hester gave an overview of the Integrated Regional Water Management Plan (IRWMP) during the Technical Advisory Committee (TAC) meeting held on March 5. She reviewed the IRWMP website recently created. She mentioned the Desert Communities Water Awareness Expo scheduled for April 5-7, as well as other meetings and activities.
7. **General Manager’s Report**
No report.
8. **Public Participation**
No report.
9. **Comments/Discussion Items for Next or Future Agendas**
None mentioned.
10. **Adjournment**
Chairperson Doug Shumway adjourned the meeting at 10:20 a.m.

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

Attachments on-file:
Item 4 – Federal Advocate Staff Report
Sign-in sheet

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



**PUBLIC
AFFAIRS**

TO: Legal, Legislative and Public Information Committee

**FROM: Ed Manning
Carolyn Jensen**

RE: KP Public Affairs Agenda

1. Prop. 84 IRWMP Grant Application

2. Legislative Update:

A. Bills of Interest (see attachment):

- AB 115 (Perea) Safe Drinking Water State Revolving Fund
- AB 145 (Perea) State Water Resources Control Board: drinking water
- AB 741 (Brown) Local government finance: tax equity formula: qualifying cities
- AB 823 (Eggman) California Farmland Protection Act
- SB 246 (Fuller) Desert View Water District-Bighorn Mountains Water Agency
- SB 425 (DeSaulnier) The Public Works Peer Review Act of 2013
- SB 735 (Wolk) Sacramento-San Joaquin Delta Reform Act of 2009: covered actions

3. Water Bond Update (see attachment):

- A. AB 142 (Perea) State Water Resources Control Board: drinking water
- B. AB 295 (Salas) California Statewide Water Reliability Act of 2014

4. State Budget Update

5. BDCP Update:

- A. Preliminary Draft BDCP Chapters Released

03/27/13

KP Public Affairs
Mojave Water Agency Bill Status Report as of 3/27/2013

AB 115 (Perea D) Safe Drinking Water State Revolving Fund.

Introduced: 1/14/2013

Status: 3/12/2013-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (March 12). Re-referred to Com. on APPR.

Is Urgency: N

Is Fiscal: Y

Location: 3/12/2013-A. APPR.

Summary: Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adopting and enforcing regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies. This bill would authorize the department to fund projects, by grant, loan, or a combination of the two, where multiple water systems apply for funding as a single applicant for the purpose of consolidating water systems or extending services to households relying on private wells, as specified. The bill would authorize funding of a project to benefit a disadvantaged community that is not the applying agency. The bill, for purposes of considering eligibility for construction funding, would require a legal entity to exist that is not necessarily the applicant, but that has the authority to enter into contracts and incur debt on behalf of at least one of the communities to be served and has the right to operate at least one of the public water systems under a lease or memorandum of understanding with a term of at least 20 years. By authorizing the use of a continuously appropriated fund for new purposes, this bill would make an appropriation. This bill contains other existing laws.

AB 142 (Perea D) Safe, Clean, and Reliable Drinking Water Supply Act of 2012.

Introduced: 1/17/2013

Last Amend: 3/19/2013

Status: 3/20/2013-Re-referred to Com. on W.,P. & W.

Is Urgency: N

Is Fiscal: Y

Location: 3/20/2013-A. W.,P. & W.

Calendar: 4/2/2013 9 a.m. - State Capitol, Room 437 ASSEMBLY WATER, PARKS AND WILDLIFE, RENDON, Chair

Summary: Existing law creates the Safe, Clean, and Reliable Drinking Water Supply Act of 2012, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$11,140,000,000 pursuant to the State General Obligation Bond Law to finance a safe drinking water and water supply reliability program. Existing law provides for the submission of the bond act to the voters at the November 4, 2014, statewide general election. This bill would require a state department that expends moneys in grants or other expenditures from the bond act to provide information to the Treasurer within a specified time period including the total amount of moneys spent on each project or program, the specific location of the project, and a detailed description of the project. This bill would further require the Treasurer to post this information on its Internet Web site, as specified. This bill contains other related provisions.

AB 145 (Perea D) State Water Resources Control Board: drinking water.

Introduced: 1/18/2013

Status: 1/31/2013-Referred to Coms. on W.,P. & W. and E.S. & T.M.

Is Urgency: N

Is Fiscal: Y

Location: 1/31/2013-A. W.,P. & W.

Calendar: 4/2/2013 9 a.m. - State Capitol, Room 437 ASSEMBLY WATER, PARKS AND WILDLIFE, RENDON, Chair

Summary: The California Safe Drinking Water Act (state act) provides for the operation of public water systems and imposes on the State Department of Public Health various duties and responsibilities. Existing law requires the department to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the state act, and to enforce provisions of the federal Safe

Drinking Water Act. This bill would transfer to the State Water Resources Control Board the various duties and responsibilities imposed on the department by the state act. This bill contains other related provisions and other existing laws.

AB 295 (Salas D) California Statewide Water Reliability Act of 2014.

Introduced: 2/11/2013

Last Amend: 3/19/2013

Status: 3/20/2013-Re-referred to Com. on W.,P. & W.

Is Urgency: N

Is Fiscal: Y

Location: 3/20/2013-A. W.,P. & W.

Calendar: 4/2/2013 9 a.m. - State Capitol, Room 437 ASSEMBLY WATER, PARKS AND WILDLIFE, RENDON, Chair

Summary: Existing law creates the Safe, Clean, and Reliable Drinking Water Supply Act of 2012, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$11,140,000,000 pursuant to the State General Obligation Bond Law to finance a safe drinking water and water supply reliability program. Existing law provides for the submission of the bond act to the voters at the November 4, 2014, statewide general election. This bill would repeal these provisions. This bill contains other related provisions and other existing laws.

AB 741 (Brown D) Local government finance: tax equity allocation formula: qualifying cities.

Introduced: 2/21/2013

Status: 3/11/2013-Referred to Com. on L. GOV.

Is Urgency: Y

Is Fiscal: Y

Location: 3/11/2013-A. L. GOV.

Summary: Existing property tax law requires the auditor of each county with qualifying cities, as defined, to make certain property tax revenue allocations to those cities in accordance with a specified Tax Equity Allocation (TEA) formula established in a specified statute and to make corresponding reductions in the amount of property tax revenue that is allocated to the county. This bill would, commencing with the 2012-13 fiscal year and each fiscal year thereafter, increase the allocation of property tax revenues under a new TEA formula, as specified, for qualifying cities, as defined. This bill contains other related provisions and other existing laws.

AB 823 (Eggman D) Environment: California Farmland Protection Act.

Introduced: 2/21/2013

Last Amend: 3/11/2013

Status: 3/21/2013-In committee: Set, first hearing. Hearing canceled at the request of author.

Is Urgency: N

Is Fiscal: Y

Location: 3/12/2013-A. NAT. RES.

Summary: The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. This bill would enact the California Farmland Protection Act, which would require that an applicant for a project, as defined, that involves the conversion of agricultural land to a permanent or long-term nonagricultural use, including a residential, commercial, civic, industrial, infrastructure, or other similar use, at a minimum, mitigate the identified environmental impacts associated with the conversion of those lands through the permanent protection and conservation of land suitable for agricultural uses, and would require that an adopted mitigation measure providing for the protection of agricultural land meet specified requirements. The act would require that any lands identified and proposed for conservation and protection meet specified criteria. The act would provide that a project is deemed to have fully mitigated all identified significant project-level and cumulative impacts on agricultural resources and no further mitigation is required if specified conditions are met. The act would require the Office of Planning and Research, no later than December 31, 2014, to promulgate regulations covering projects subject to the act. By imposing new duties on a lead agency with regard to the review and approval of the mitigation measures required by the act, the bill would impose a

state-mandated local program . This bill contains other related provisions and other existing laws.

- SB 246** **(Fuller R) Desert View Water District-Bighorn Mountains Water Agency.**
Introduced: 2/12/2013
Status: 3/14/2013-Set for hearing April 17.
Is Urgency: N
Is Fiscal: N
Location: 2/21/2013-S. G. & F.
Calendar: 4/17/2013 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, WOLK, Chair
Summary: Existing law, the Desert View Water District-Bighorn Mountains Water Agency Consolidation Law, authorized a consolidation between the Desert View Water District and the Bighorn Mountains Water Agency and required a county water district consolidated with the Bighorn Mountains Water Agency to separately account for and use all funds derived from the operation of the former district system exclusively for the purposes of maintenance, operation, betterments, and bond debt service of the acquired system until all debt of the former system has been paid in full or until a majority vote of the electorate, as prescribed, authorizes other expenditures. This bill would instead specify procedures for the repayment of bonded indebtedness incurred prior to the consolidation and would prohibit the consolidation from being construed to impair any existing contract.
- SB 425** **(DeSaulnier D) Public works: the Public Works Peer Review Act of 2013.**
Introduced: 2/21/2013
Status: 3/20/2013-Set for hearing April 9.
Is Urgency: N
Is Fiscal: Y
Location: 3/11/2013-S. G.O.
Calendar: 4/9/2013 9:30 a.m. - John L. Burton Hearing Room (4203) SENATE GOVERNMENTAL ORGANIZATION, WRIGHT, Chair
Summary: Existing law defines a public work as construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type, street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, and public transportation demonstration projects, as specified. This bill would require a state agency or department or a regional or local agency, principally tasked with administering the planning and development of a public works project to establish a specified peer review group, to provide it with expert advice on the scientific and technical aspects of the project if the public works is a megaproject, defined as having total development, construction, and reasonable projected maintenance costs exceeding one billion dollars \$1,000,000,000; if the Governor or the head of the administering agency has determined that the establishment of a peer review group is in the public interest in connection with the development and construction of the project; or if a statute or concurrent resolution is passed by the Legislature requiring the administering agency to do so. The bill would prohibit a peer review group from meeting or taking any action until a charter is filed with the head of the administering agency and the relevant standing committees of the Legislature and is posted on the administering agency's Internet Web site, stating the group's objective, the scope of its activities, and a description of the duties for which the group is responsible, among other things. This bill contains other related provisions and other existing laws.
- SB 735** **(Wolk D) Sacramento-San Joaquin Delta Reform Act of 2009: covered actions.**
Introduced: 2/22/2013
Status: 3/13/2013-Set for hearing April 9.
Is Urgency: N
Is Fiscal: Y
Location: 3/11/2013-S. N.R. & W.
Calendar: 4/9/2013 9:30 a.m. - Room 112 SENATE NATURAL RESOURCES AND WATER, PAVLEY, Chair
Summary: The Sacramento-San Joaquin Delta Reform Act of 2009 establishes the Delta Stewardship Council, which is required to develop, adopt, and commence implementation of a comprehensive management plan for the Delta by January 1, 2012. The act requires a state or local public agency that proposes to undertake a covered action to prepare a written certification,

as prescribed, as to whether the covered action is consistent with the Delta Plan. The act defines "covered action" to mean a plan, program, or project that meets specified conditions. This bill would exclude from the definition of "covered action" the approval or implementation of a project which is a part of a larger conservation plan submitted pursuant to the federal Endangered Species Act, a natural community conservation plan submitted pursuant to the Natural Community Conservation Planning Act, or certain permits related to the taking, importation, exportation, or sale of endangered or threatened species issued to specified entities located within certain counties.

Total Measures: 9

Total Tracking Forms: 47

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Comprehensive Government Relations

MEMORANDUM

To: Mojave Water Agency Legal, Legislative and Public Information Committee

From: Letitia White and Heather Hennessey

Date: March 27, 2013

Re: March Monthly Legislative Update

The month of March brought some welcome developments in the form of a final federal spending bill for FY 2013 and substantial movement forward on the FY 2014 House and Senate budget resolutions. Even though the sequester budget cuts are now permanently in place, at least we have avoided any government shutdown brinksmanship and seem some motions toward a return to regular order. But funding issues will remain the center of attention as we move through the spring and early summer months.

FY 2014 Budget Work Takes Center Stage

After the painful and messy budget process that plagued FY 2013 from the beginning, all involved are hopeful that FY 2014 will move more smoothly. As we have reported, the delay in the President's budget, which was due on February 6th, is ongoing. But budget writers in the House and Senate moved forward during March despite the fact that they are lacking that important piece of the puzzle. Current estimates are that the White House will release its budget on April 8th.

It is worth taking a moment to remind ourselves what the Congressional budget is and what it is not. The Congressional budget document is essentially a broad roadmap which includes proposals for new policy provisions, goals for changes to the tax code and mandatory spending programs and the top line spending numbers for the federal government. It does not go into the depth of program by program spending analysis that the President's budget and the Appropriations bills will use. Nevertheless, it is a useful document that foreshadows the spending battles ahead and sets the spending cap that will be used by the House and Senate Appropriations Committees as they undertake their work later in the year.

The House budget, authored by Congressman Paul Ryan (R-WI), passed the House on March 21st on a mostly partisan vote of 221 to 207. It balances the federal budget within ten years, in part by cutting over \$4 trillion from future federal spending. One of the primary budget cutting provisions in the House bill will reform the Medicare program for people who are younger than 54. The bill also proposes to repeal Obamacare, overhaul the tax code and leave the sequester budget cuts in place. Several alternative budgets were considered by the House during floor debate during the week of March 18th, including budget proposals from the Congressional Black

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Caucus, Republican Study Committee and the Progressive Caucus. All of those alternative proposals were rejected, along with a proposal that mirrored the Senate's budget plan.

The Senate budget, on the other hand, proposes to raise taxes by almost \$1 trillion over the next ten years in order to reduce deficit spending. It does not aim to balance the budget and proposes that government spending increase at a rate of 5 percent each year, as opposed to the House version which raises spending 3.4 percent annually. The Senate budget also replaces the sequester budget cuts with a combination of tax hikes and reductions to some spending programs. This is the first Senate budget proposal to reach the floor of the Senate in over three years and was authored by new Senate Budget Chairwoman Patty Murray (D-WA). Senators took the rare opportunity offered by a moving budget resolution to require votes on many dozens of amendments, which took up several days of floor time. Debate ended in the early morning hours of Saturday the 23rd after Senators spent more than 13 hours voting on 70 consecutive amendments. In the end, the budget passed by a razor thin margin of 50 to 49.

With both chambers having adopted budget resolutions, work will begin in April on reconciling the two different packages. By having gotten this far, the House and Senate have averted the legislative punishment of facing a suspension in pay for Members of Congress and made more progress than we have seen in the past four years. As you may recall, the pay suspension law was passed a couple of months ago and would have taken effect if either chamber failed to pass a budget by April 15th. If a conference budget agreement is reached, it will be a thrilling sign that partisan rhetoric may take a backseat for the next few months. It is possible that the House and Senate could use a budget document to map out changes to the tax code and some other legislative agenda items for the rest of this year. As thrilling as such a development would be, the chances of agreement on a bipartisan budget document are probably fairly slim. The House and Senate are starting from radically different bargaining positions, and bridging the gap might take more compromise than either party is willing to give at the moment. Tax code and other program changes can take place with or without a reconciled budget agreement.

Continued Positioning on the Debt Limit

With FY 2013 spending settled and the FY 2014 process underway, the next looming fiscal battle is this summer's debt limit deadline. You may recall that Congress and the President agreed to a short-term extension of the debt limit in mid-February. Current estimates predict that the nation will once again hit its borrowing limit in late May or early June, at which point legislation will again be needed to avoid a default situation.

Most of the political maneuvering that will take place during the spring months will be done with the debt limit debate in mind. Republicans are hoping to draw the President to the bargaining table on serious deficit reform efforts, but if that effort is not successful we expect to see another short-term extension. The theory is that a series of short-term extensions will frustrate the President's policy agenda while keeping fiscal issues and deficit reduction on the front burner to the benefit of Republicans. The posturing and rhetoric will likely get more intense as the deadline approaches and may once again edge out all other business on Capitol Hill.

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WRDA Moves through the Senate EPW Committee

The Senate Environment and Public Works Committee, Chaired by Senator Barbara Boxer, unanimously approved an amended version of the Water Resources Development Act last week. Senator Boxer expects the bill to move through the Senate floor in April or May. As you may recall, Congress has not passed a WRDA bill since 2007, meaning that this legislation is many years overdue. A WRDA bill is necessary to authorize new flood control, navigation and environmental restoration projects to be undertaken by the US Army Corps of Engineers. WRDA bills have sparked controversy in the past because they are often used as a vehicle for reform of the Army Corps, an agency that faces increasing Congressional scrutiny for mismanaging or failing to complete projects. WRDA also tends to be an expensive bill, making it difficult to pass during a time of deep budget cuts like the ones we are currently seeing.

In encouraging news, this bill contains provisions authorizing a pilot program establishing loans and loan guarantees for financing flood control, water supply and wastewater projects. As federal funding for water infrastructure and flood control projects becomes more and more scarce, this type of innovative financing mechanism could be crucial to improving investment in the nation's aging water infrastructure. In the past, Congress has been unable to agree on what form a new funding mechanism might take. The fact that the provision found bipartisan support in the EPW Committee could be a sign that the political parties have found common ground on this important issue.

Another encouraging provision to come out of the Senate is one that aims to streamline regulatory approval of US Army Corps of Engineers projects. It allows for concurrent environmental reviews in a way that mirrors the provision included in the most recent Transportation Reauthorization bill. Also, the WRDA provision sets a three-year deadline and \$3 million limit for federal costs on feasibility studies and imposes penalties for dragging out decisions on permits and licenses. Entities who work with the Corps have often accused the agency of taking endless time and resources to complete studies, so these provisions should be a welcome change for many local agencies.

During committee consideration, an amendment was adopted that would allow for the deauthorization of some projects from older WRDA bills that are no longer viable. The US Army Corps of Engineers faces substantial criticism for its project backlog, and that backlog is often blamed for the Corps' inefficient operations. The amendment allows for the creation of a commission which would be empowered to identify water resources projects from prior authorization bills that are either no longer feasible or in the interest of the federal government to pursue. Modeled on the Department of Defense's Base Realignment and Closure (BRAC) process, the commission would submit a list of projects to Congress, and the projects would be deauthorized unless Congress passed a disapproval resolution.

Outlook for April

The coming month will give lawmakers a rare few weeks without a looming fiscal crisis in which to turn their attention to other matters. We could see consideration of immigration legislation or a gun control measure during the mid-April timeframe. And the appropriations committees will be busy holding hearings and beginning to draft the FY 2014 funding bills. As always, we will continue to keep you posted!

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

Meeting Date: April 3, 2013

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

Budgeted: N/A

Budgeted Amount: N/A

Cost: Staff and Legal Counsel Resources

From: Marina D. West

General Counsel Approval: Obtained

CEQA Compliance: N/A

Subject: Ames/Reche Groundwater Storage and Recovery Program Memorandum of Understanding Between Bighorn-Desert View Water Agency and Mojave Water Agency - Update

SUMMARY

Attached is the Ames/Reche Groundwater Storage and Recovery Program Memorandum of Understanding Between Bighorn-Desert View Water Agency and Mojave Water Agency to be executed prior to operation of the recharge facilities.

This document has been developed in close coordination with Agency Counsel Aklufi and has been approved by Mojave Water Agency Counsel Brunick and staff. Mojave Water Agency will present the document to their Committee and Board in April.

The MOU was reviewed by the Board of Directors at the March 26, 2013 regular meeting but was not executed due to questions from the Board regarding paragraph 5 concerning indemnification from third party claims. Staff has reviewed the language with General Counsel Aklufi who confirms that the language is appropriate as written.

The Director's want to be assured that BDVWA will not be responsible for legal costs that arise from third party claims resulting from activities that Mojave Water Agency is taking responsibility for under this MOU. The key to this assurance is in the last three lines of Paragraph 5 which, in laymen's terms, states that "each party indemnifies the other party against third party claims that arise out of the negligence or misconduct of the indemnifying party".

RECOMMENDATION

Discuss Memorandum of Understanding and formulate a recommendation for consideration by the full Board on April 23, 2013.

BACKGROUND/ANALYSIS

On May 29, 2012, Mojave became a signatory to the Ames/Reche Groundwater Storage and Recovery Program and Management Agreement ("the Agreement") wherein Mojave agreed to employ its best efforts to construct at its sole cost, and then to own, maintain and operate recharge facilities on the land leased by Bighorn-Desert View ("the Recharge Facilities").

Attached is the associated Memorandum of Understanding formalizing this particular aspect of the Agreement between the two parties.

The Ames/Reche Groundwater Storage and Recovery Program been primarily funded by Mojave Water Agency with significant contributions by Bighorn-Desert View Water Agency mostly through its EPA State and Tribal Assistance Grant (STAG). Bighorn-Desert View Water Agency has been the "lead" agency for this project following its introduction in the 2004 Integrated Regional Water Management Plan developed by Mojave Water Agency, a "responsible" agency to this project.

The California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA) and all other required permits have been secured for the project. Close of escrow for purchase and transfer of mitigation lands is imminent as of the date of publication of this staff report. Mojave Water Agency has prepared contract specifications and the project is currently in the bidding phase. Mojave Water Agency expects to award their pipeline and turnout construction project by the end of April 2013. Mojave Water Agency will use "in-house" forces to develop the 5-acre area to be "wetted".

The MOU was reviewed by the Board of Directors at the March 26, 2013 regular meeting but was not executed due to questions from the Board regarding paragraph 5 concerning indemnification from third party claims. Staff has reviewed the language with General Counsel Aklufi who confirms that the language is appropriate as written.

The Director's want to be assured that BDVWA will not be responsible for legal costs that arise from third party claims resulting from activities that Mojave Water Agency is taking responsibility for under this MOU. The key to this assurance is in the last three lines of Paragraph 5 which, in laymen's terms, states that "each party indemnifies other party against third party claims that arise out of the negligence or misconduct of the indemnifying party". In other words, if MWA does something to cause injury to a third party and BDVWA is named then MWA must indemnify BDVWA (e.g. whoever causes the damage or injury has to indemnify the innocent party). The reverse is also true, if BDVWA is the cause of the damage or injury then we must indemnify MWA. In this case, a majority of the possible risks arise from operation and maintenance of the facility not just the act of maintaining a right-of-way with the Bureau of Land Management (BLM).

General Counsel Aklufi is not recommending any changes other than correcting the "typo" noted on the attached. Therefore, the item will be brought back before the Board in April for further consideration.

Execution of this MOU is considered essential to the transfer of responsibility of operations and maintenance of the facility. Once the facility is constructed (i.e. operational), BDVWA will proceed with the final administrative step which is filing of the Stipulated Judgment which binds all parties to the groundwater basin management strategy they agreed to adopt.

PRIOR RELEVANT BOARD ACTION(S)

3/26/2013 Board reviewed the Ames/Reche Groundwater Storage and Recovery Program Memorandum of Understanding between Bighorn-Desert View Water Agency and Mojave Water Agency.

1/22/2013 Ames/ Reche Groundwater Storage and Recovery Program – Receive and File Executed California Department of Fish and Game Incidental Take Permit No. 2081-2012-020-06.

11/27/2012 Motion No. 12-081 Receive and File Various Permits and Notices Obtained for the Ames/Reche Groundwater Storage and Recovery Program identified as; a) Letter of “Non-jurisdictional” Authority; County of San Bernardino, Department of Public Works, July 2010. b) Approved Jurisdictional Determination regarding presence/absence of geographic jurisdiction (pertains to Section 404 Streambed Alteration); U.S. Army Corps of Engineers, June 10, 2011. c) Streambed Alteration Agreement (Section 1600); California Department of Fish and Game, August 2, 2011. d) National Environmental Policy Act (NEPA) – Decision Record; U.S. Department of the Interior, Bureau of Land Management, August 2012. e) National Environmental Policy Act (NEPA) – Finding of No Significant Impact (FONSI); U.S. Department of the Interior, Bureau of Land Management, August 2012.

10/16/2012 Motion No. 12-073 Resolution No. 12R-30 – Adopting the Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program; and Pipeline Installation/Replacement Project Mitigated Negative Declaration – Addendum Ames/Reche Groundwater Storage and Recovery Program (Addendum No. 2).

10/16/2012 Motion No. 12-072 Authorize General Manager to execute Right-of-Way Grant/Temporary Use Permit, Serial Number CACA-50962 for construction, operation and maintenance of the Ames/Reche Groundwater Recharge Facilities; and Authorize payment of rents for a period of up to 30 years at a cost not to exceed \$20,000, upon receipt of revised document reflecting reduced project dimensions.

9/13/2012 Motion No. 12-070 Authorize General Manager to enter into Agreement between Bighorn-Desert View Water Agency and the Desert Tortoise Preserve Committee, Inc. for the purchase of and permanent preservation of 6.13 acres of mitigation lands for the Ames/Reche Project for a total of \$30,650.00; and Provide for an estimated \$3,000 for review of title and other documents related to the transfer of compensated lands to the California Department of Fish and Game.

1/10/2012 Motion No. 12-004 Approve the Ames/Reche Groundwater Storage and Recovery Program and Management Agreement.

11-30-2011 Motion No. 11-066 Adopting the Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program; and Pipeline Installation/Replacement Project Mitigated Negative Declaration - Addendum 1 Ames/Reche Groundwater Storage and Recovery Program.

6/30/2012 Motion No. 10-045, Resolution No. 10R-04 A Mitigated Negative Declaration for the Water Infrastructure Restoration Program Ames/Reche Groundwater Storage and Recovery Program and Pipeline Installation/Replacement Program

6/15/2010 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.

11/8/2001 Ames Valley Water Basin Agreement between Hi Desert Water District and Bighorn-Desert View Water Agency: Court’s Ruling and Related Order on Hi Desert Water District’s Motion to Reform the Judgment

2/6/1997 Execution of Amendment #2 to the Ames Valley Water Basin Agreement between Hi Desert Water District and Bighorn-Desert View Water Agency

8/3/1993 Execution of Amendment #1 to the Ames Valley Water Basin Agreement between Hi Desert Water District and Bighorn-Desert View Water Agency

1/10/1991 Execution of the Ames Valley Water Basin Agreement between Hi Desert Water District and Bighorn-Desert View Water Agency

**AMES/RECHE GROUNDWATER STORAGE AND
RECOVERY PROGRAM MEMORANDUM OF UNDERSTANDING
BETWEEN BIGHORN-DESERT VIEW WATER AGENCY (BIGHORN-DESERT
VIEW) AND MOJAVE WATER AGENCY (MOJAVE)**

This Agreement is entered into on _____, 2013 between Bighorn-Desert View Water (“Bighorn-Desert View”) and Mojave Water Agency (“Mojave”) and will terminate on December 31, 2041 in conjunction with the expiration of the Right of Way CACA- 50962 issued by the United States Department of Interior.

A. RECITALS

- A. On June 29, 2010, Bighorn-Desert View, as lead agency under the California Environmental Quality Act, adopted the Ames/Reche Groundwater Storage and Recovery Program Mitigated Negative Declaration which analyzed the potential environmental impacts of a 15-acre spreading grounds, connecting pipelines and up to three monitoring wells.
- B. On May 29, 2012, Mojave became a signatory to the Ames/Reche Groundwater Storage and Recovery Program and Management Agreement (“the Agreement”) wherein Mojave agreed to employ its best efforts to construct at its sole cost, and then to own, maintain and operate recharge facilities on the land leased by Bighorn-Desert View (“the Recharge Facilities”). The Agreement further states that in order to implement the Agreement, Mojave will seek to intervene as a Party by means of a Stipulation to Enter an Amended and Restated Judgment that embodies the terms and conditions of the Agreement. Other signatories to the Agreement are Hi Desert Water District, County of San Bernardino Service Area No. 70 W-1 Landers and County of San Bernardino Service Area No. 70 W-4 Pioneertown and Bighorn-Desert View.
- C. In October, 2012, the project design was further refined reducing the size of the spreading grounds to six acres and reducing the number of monitoring wells to two and Bighorn-Desert View adopted Addendum No. 1 to the Mitigated Negative Declaration. On October 16, 2012, Bighorn-Desert View adopted Addendum No. 2 to the Mitigated Negative Declaration reflecting further changes in the spreading grounds’ project design and reflecting modifications to the conditions of approval.
- D. Mojave, as a Responsible Agency, adopted the Mitigated Negative Declaration including Addendum No. 1 and No. 2 on November 15, 2012.
- E. The Bureau of Land Management issued a Decision Record and Finding of No

Significant Impact in August, 2012, in conformance with the National Environmental Policy Act.

- F. In November, 2012, United States Department of the Interior Bureau of Land Management issued to Bighorn-Desert View a Right-of-Way/Temporary Use Permit Serial No. CACA-50962 for construction, operation and maintenance of the Ames/Reche groundwater recharge facility.
- G. The following documents, executed by Bighorn-Desert View, are herein incorporated by reference as though set forth in full (collectively, “the Documents”):
- Bighorn-Desert View Water Agency Mitigated Negative Declaration for Water Infrastructure Restoration Program: Ames/Reche Groundwater Storage and Recovery Program; and Pipeline Installation/Replacement Project including Addendum No. 1 and Addendum No. 2
 - United States Department of the Interior/ Bureau of Land Management Bighorn-Desert View Water Agency Recharge Project (CA-680-2010-31) (EA) Decision Record, August 2012
 - United States Department of the Interior/ Bureau of Land Management Bighorn-Desert View Water Agency Recharge Project (CA-680-2010-31) Finding of No Significant Impact, August 2012.
 - California Department of Fish and Game Streambed Alteration Agreement Notification No. 1600-2010-0103-R6 Pipes Wash, Bighorn-Desert View Water Agency Ames/Reche Groundwater Storage, August 2011.
 - United States Department of the Interior Bureau of Land Management Right-of-Way/Temporary Use Permit Serial No. CACA-50962, November 2012.
 - California Department of Fish and Game, California Endangered Species Act Incidental Take Permit No. 2081-2012-020-06, Ames/Reche Groundwater Storage and Recovery Project, December 2012.
 - Ames/Reche Groundwater Storage and Recovery Program and Management Agreement, 2012.
 - Ames/Reche Groundwater Storage and Recovery Program and Management Agreement Monitoring Program Plan, 2012

B. AGREEMENT

1. At such time as the recharge facilities described in the Documents are completed and operational, Mojave shall thereupon, and without further notice, assume sole responsibility for operation and maintenance of the Recharge Facilities. Mojave shall also provide, operate and maintain at its sole cost and expense, pipeline and

ancillary structures and equipment necessary to connect the Recharge Facilities to Mojave's "Morongo Basin Pipeline".

2. Mojave shall comply with all of the provisions of the Documents, including the Mitigation Monitoring Program provisions in the Mitigated Declaration and Environmental Assessment, shall comply with all other permits applicable to the construction, operation and maintenance of the recharge facilities, and shall be solely responsible for the payment of any and all fines, penalties and interest thereon resulting from non-compliance.
3. Mojave shall have the right to use lands, including all leased lands by Bighorn-Desert View, including the Right of Way CACA- 50962 issued by the United States Department of Interior. Bighorn-Desert View shall not charge Mojave for said use.
4. From time to time various permits, licenses and leases obtained by Bighorn-Desert View on behalf of the Project will expire. Mojave shall obtain continued renewal of such permits, licenses and leases in its name and at Mojave's sole cost on behalf of the project participants. Costs and expenses that may be incurred by Bighorn-Desert View for any permits, licenses and leases which may be renewed by Bighorn-Desert View on behalf of the signatories of the Agreement shall also be paid for by Mojave.
5. Each Party shall indemnify, hold harmless and assume the defense of the other Parties, their officers, agents, employees, and elective boards, and that Party shall pay all court costs and reasonable attorney's fees relating thereto, in any action, with respect to a claim, loss, damage or injury, asserted by a third Party against any Party entitled to indemnification under this Agreement, and arising out of a negligent act, error or omission, or willful misconduct, of an employee or agent of the Party whose actions under this Judgment gave rise to such third Party claim.
6. Any notice, tender or delivery to be given hereunder by any Party to another Party or Parties shall be effected by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of mailing or in case of personal delivery, as of actual receipt. Mailed notices shall be addressed as set forth below, but each Party may change its address by written notice in accordance with this paragraph 6.

To: Bighorn-Desert View Water Agency
622 S. Jemez Trail
Yucca Valley, California 92284
Attention: General Manager

To: Mojave Water Agency
13846 Conference Center Drive
Apple Valley, California 92307
Attention: General Manager

7. If a dispute arises regarding breach or enforcement of the provisions of this Agreement, a Party who is determined to be a prevailing Party therein shall be entitled to recover all attorney's fees or other costs actually incurred in connection with resolving the dispute, but only to the extent such resolution is achieved by an order or decision of a court of competent jurisdiction.
8. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties.
9. The persons executing this Agreement on behalf of the Parties hereto represent and warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party and to bind that Party, including its members, agents and assigns, and (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement.
10. Nothing in this Agreement is intended by either Mojave or Bighorn-Desert View to vary, modify or contradict any provision of the Amended and Restated Judgment. In the event of a conflict or inconsistency the Judgment shall control.

BIGHORN-DESERT VIEW WATER
AGENCY

By its General Manager, Marina West

MOJAVE WATER AGENCY

By its General Manager, Kirby Brill

Bighorn-Desert View Water Agency

Board of Directors

Michael McBride, President
Judy Corl-Lorono, Vice President
David Larson, Secretary
Terry Burkhart, Director
J. Dennis Staley, 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

A Public Agency

www.bdvwa.org

PLANNING/LEGISLATIVE/ENGINEERING GRANT & SECURITY COMMITTEE REGULAR MEETING REPORT

BOARD MEETING OFFICE
1720 N. Cherokee Trail, Landers, CA 92285
Wednesday, February 6, 2013 - 9:15 a.m.

COMMITTEE MEMBERS: Director Corl-Lorono & Director Burkhart

CALL TO ORDER

Director Corl-Lorono called the meeting to order at 9:15 a.m.

PLEDGE OF ALLEGIANCE

Led by Director Staley

ROLL CALL

Directors: Judy Corl-Lorono
J. Dennis Staley - Alternate
Director Burkhart – Absent with prior notice

Staff: Michelle Corbin

APPROVAL OF THE AGENDA

Director Corl-Lorono and Director Staley approved the agenda as presented.

Adjourned for a Break at 9:18 a.m. - Reconvened from Break at 9:30 a.m.

CONFERENCE CALL WITH MOJAVE WATER AGENCY'S LEGAL/LEGISLATIVE AND PUBLIC INFORMATION COMMITTEE

Bighorn-Desert View Water Agency Committee participated via teleconference to Mojave Water Agency's agenzized meeting to receive an update by their State Advocate, Ed Manning and Carolyn Jensen of KP Public Affairs. Ms. Jensen reviewed a few of the 2013 bills that may be of interest to Mojave Water Agency. The Federal Advocate, Heather Hennessey of Innovative Federal Strategies, spoke about the upcoming

Sequester, Association of California Water Agencies (ACWA) Conference and financing mechanisms for water infrastructure projects.

PROJECT UPDATE: B3/B4 RESERVOIR RECOATING AND JOHNSON VALLEY WELL 10 RESERVOIR CLEANING

District Engineer Chuck Krieger gave the staff report. The mandatory pre-bid meeting will be held the following day, February 7, 2013. The purpose of the pre-bid meeting is to verify the project outline and identify any issues. The opening of the bids will be the following week.

No public comment.

The Committee directed staff to bring this item to the full Board of Directors at the February 26, 2013 meeting.

PROPOSAL FROM AGENCY ENGINEER TO PREPARE REQUEST FOR PROPOSAL FOR ARC FLASH HAZARD STUDY

District Engineer Chuck Krieger gave the staff report. The intention of the Arc Flash Hazard Study is to protect personnel. The proposal includes the creation of a document with diagrams and site visits to set forth recommendations for proper clothing, proper labeling and to identify exclusion zones at each site. The study is necessary in order to insure the Agency is doing all it can to protect the employees.

As a cost savings measure, his firm is requesting a study of only one plant which will later be applied to the others within the agency.

No public comment.

The Committee directed staff to bring this item to the full Board of Directors at the February 26, 2013 meeting.

PROPOSAL FROM AGENCY ENGINEER TO PREPARE CONTRACT DOCUMENTS FOR EQUIPPING SELECTED PUMPING PLANTS WITH MANUAL TRANSFER SWITCHES NECESSARY TO UTILIZE A PORTABLE GENERATOR DURING EXTENDED POWER OUTAGES AND EMERGENCIES

District Engineer Chuck Krieger gave the staff report. Mr. Krieger's firm is proposing the preparation of contract documents for equipping selected pumping plants with manual transfer switches. Last year photos were taken of sites identified as possible pumping plants that would benefit from the installation of manual transfer stations. This upgrade would allow the connection of portable generators should the agency have an extended power outage or emergency.

Anonymous asked if the pedestal being installed will be wired with copper wire and if so, will steps be taken to prevent theft.

The Committee directed staff to bring to the full Board of Directors at the February 26, 2013 meeting.

PROPOSAL FROM AGENCY ENGINEER TO PREPARE ENGINEERS REPORT RECOMMENDING FUTURE OPERATIONAL CONFIGURATION FOR THE PRODUCTION AREA ENCOMPASSING WELL NOS. 2, 3 AND 4

District Engineer Chuck Krieger gave the staff report beginning with a brief description of considerations that will eventually contribute to recommendations with regard to the future operation of this wellfield. The treating of uranium is not included in the draft work order but the possibility of blending was discussed as a more cost effective method over a treatment plant.

Anonymous commented on how far the Agency has come since hiring General Manager Marina West with regards to moving forward with the maintenance of the Agency's system.

The Committee directed staff to bring the item to the full Board of Directors at the February 26, 2013 meeting.

COOPERATIVE PARTICIPATION: RENTAL AGREEMENT WITH JOSHUA BASIN WATER DISTRICT FOR USE OF ONE "WATER BUFFALO" FOR PUBLIC RELATIONS DISPLAY DURING CONSTRUCTION OF THEIR RECHARGE PIPELINE PROJECT

Staff member, Michelle Corbin reported the Agency was recently contacted by Joshua Basin Water District with a request to rent a "Water Buffalo" to be used as a display for public relations at their recharge project site.

No public comment.

The Committee was not opposed to the rental of the water buffalo to Joshua Basin Water.

CONSENT ITEMS

- a. Regular PLEGS Meeting Report, February 6, 2013

No public comment.

Director Staley and Director Corl-Lorono approved the report.

PUBLIC PARTICIPATION

No public comment.

VERBAL REPORTS

COMMITTEE MEMBERS' COMMENTS/REPORTS

No reports.

GENERAL MANAGER'S REPORT

No report.

ITEMS FOR NEXT AGENDA- None

ADJOURNMENT - Director Corl-Lorono adjourned the meeting at 10:39 a.m.