

# 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, PG, General Manager

[www.bdvwa.org](http://www.bdvwa.org)

A Public Agency

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## BOARD OF DIRECTORS' REGULAR MEETING AGENDA

BOARD MEETING OFFICE  
1720 N. Cherokee Trail, Landers, CA 92285  
**Tuesday, February 22, 2011 - 6:00 p.m.**

### 1. CALL TO ORDER

Any member of the audience using an audio or video recording device during this meeting must advise members of the public when the device is turned on and when it is turned off.

### 2. PLEDGE OF ALLEGIANCE

### 3. ROLL CALL

### 4. APPROVAL OF AGENDA

### 5. PUBLIC PARTICIPATION

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

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

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

The 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.

**6. RETENTION OF CPA FIRM MAYER HOFFMAN MCCANN, P.C. AS AUDITOR**

Recommended Action:

The Board to provide direction to the General Manager regarding the Board's desire to continue contractual services with Mayer Hoffman McCann, P.C. for a third term.

**7. CONTRACT SERVICES AGREEMENT WITH ALESHIRE & WYNDER LLP FOR GENERAL AND SPECIAL COUNSEL SERVICES**

Recommended Action:

- a. The Board to consider authorizing the General Manager to enter into a Contract Services Agreement for General and Special Legal Counsel Services with Aleshire & Wynder, LLP; and
- b. Provide direction to General Manager on Board's desire to initiate a competitive solicitation process for appointment of an Agency attorney pursuant to Section 112-14 of the Bighorn-Desert View Water Agency law.

**8. DEPARTMENT OF PUBLIC HEALTH NOTICE: GROSS ALPHA AND URANIUM CONCENTRATIONS AT WELL NO. 2 AND WELL NO. 3**

Staff to present an update to the Board on a Department of Public Health Notice regarding Gross Alpha and Uranium concentrations at Well No. 2 and Well No. 3.

**9. GENERAL MANAGER PERFORMANCE/COMPENSATION "2-MEMBER" AD HOC COMMITTEE**

Recommended Action:

The Board to consider forming a General Manager Performance/Compensation Ad Hoc Committee to discuss the annual review of the General Manager's performance and contract.

**10. REGISTRATION TO ATTEND A PUBLIC FORUM ON "THE IMPACT OF POLITICS" HOSTED BY THE VICTORVILLE CHAMBER OF COMMERCE**

Recommended Action:

The Board to consider attending a Public Policy Forum: The Impact of Politics. Guest speakers will be Dan Schnur, Chairman of the California Fair Political Practices Commission/Director of the Institute of Politics at the University of Southern California and Steve Knight, California State Assemblyman, in discussing recent changes in government and the impact of politics in California. Estimated cost: \$125.00.

**11. DISBURSEMENTS JANUARY 2011**

Recommended Action:

Ratify/authorize payment of bills for January 2011.

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

Recommended Action:

Approve as presented (Items a - d):

- a. Financial Statements, January 2011
- b. Consumption & Billing Comparison Report, January 2011
- c. Service Order Report, January 2011
- d. Production Report, January 2011

**13. MATTERS REMOVED FROM CONSENT ITEMS**

- 14. VERBAL REPORTS** - Including Reports on Courses/Conferences/Meetings.

- a. GENERAL MANAGER'S REPORT
- b. DIRECTORS' REPORT
- c. PRESIDENT'S REPORT

**15. ITEMS FOR NEXT AGENDA**

**16. 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](http://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](http://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.

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

**Meeting Date:** February 22, 2011

**To:** Board of Directors

**Budgeted:** Yes

**Budgeted Amount:** \$80,000

**Cost:** on-going

**From:** Marina D. West

**Funding Source:** Budget line: 56007

**General Counsel Approval:** N/A

**CEQA Compliance:** N/A

**Subject:** Retention of CPA Firm Mayer Hoffman McCann, P.C. as Auditor

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**SUMMARY**

The Agency has entered into a three year engagement with Mayer Hoffman McCann P.C. Under this contract, MHM has just completed the second full audit cycle for the Agency.

The Board is aware that in 2010 it was discovered that MHM was engaged as the auditor for the City of Bell. The controversy behind the facts of the Bell case are not yet fully known however some agencies including Mojave Water Agency have already cancelled their audit contracts with MHM.

Staff is seeking direction from the Board as to whether or not they wish to retain Mayer Hoffman McCann P.C. for a third year as originally envisioned in the contractual engagement.

**RECOMMENDATION**

That the Board take the following action:

Provide direction to the General Manager regarding the Board's desire to continue contractual services with Mayer Hoffman McCann P.C. for a third year.

**BACKGROUND/ANALYSIS**

The firm of Mayer Hoffman McCann P.C. (MHM) was selected by the Agency through a professional services competitive solicitation process executed by Mojave Water Agency in early 2009. Small entities, such as BDVWA, can capitalize on the efforts of larger entities to obtain true professional services competitive bids as larger entities have the resources to not only write detailed qualitative and quantitative project specifications they also retain the expertise to evaluate the proposals received. This is a tremendous asset and cost saving measure allowable and acceptable under public contracting guidelines called "piggy backing".

In mid-2010, the City of Bell made headlines when it was revealed that Bell city officials were receiving obscenely large salaries. The controversy grew with subsequent investigations into unusually high property tax rates in the city, allegations of voter fraud in municipal elections and several other irregularities under the current administration. Members of the City

Council and management staff were arrested and charged with various crimes as a result of the discovery.

On December 21, 2010, the California State Controller's Office released its quality control review report on MHM's audit of the financial statements of the City of Bell for the year ended June 30, 2009. No allegations of criminal involvement by MHM have arisen as a result of the State Controller's report.

As a result of the on-going controversy, some of MHM's clients have decided to end their contractual relationships with MHM. In fact, the Mojave Water Agency Board of Directors just recently announced their decision to seek a new auditing firm.

Staff is seeking direction from the Board as to whether they wish to continue utilizing MHM as their auditor or not.

If the Board decides to terminate the contract with MHM, staff recommends that they rely on the results of the professional services competitive solicitation process now being executed by MWA as a result of their decision to find a new audit firm.

#### **PRIOR RELEVANT BOARD ACTION(S)**

4/28/2009 Authorize General Manager to enter into engagement with Mayer Hoffman McCann P.C. for Fiscal Year 2008/2009 Audit at a cost not to exceed \$28,000 in year one with the intent to continue the contract for a three year period with an option to engage for an additional two years.

**MHM****Mayer Hoffman McCann P.C.**

An Independent CPA Firm

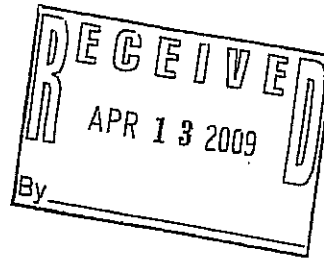
2301 Dupont Drive, Suite 200

Irvine, California 92612

949-474-2020 ph

949-263-5520 fx

www.mhm-pc.com



April 7, 2009 ..

Marina D. West, PG  
General Manager  
Bighorn-Desert View Water Agency  
622 S. Jemez Trail  
Yucca Valley, California 92284

Dear Ms. West:

This letter sets forth the nature, terms, and objectives of our proposed engagement to audit the financial statements of the Bighorn-Desert View Water Agency ("the Organization" or "the Agency" below) for the years ended June 30, 2009, 2010, and 2011, with the option to audit the two subsequent fiscal years (at the sole discretion of the Agency).

MAYER HOFFMAN MCCANN P.C. is one of the largest firms in Southern California whose audit practice is predominantly focused on auditing local governments. We currently serve as the independent auditors for over 45 cities in the five-county area of Southern California, and several large water and sewer agencies (including the Orange County Sanitation District, Inland Empire Utilities Agency, Coachella Valley Water District, Moulten Niguel Water District, South Coast Water District, Cucamonga Valley Water District, Chino Basin Watermaster, Santa Margarita Water District, Elsinore Valley Municipal Water District, San Bernardino Municipal Water Department, Vista Irrigation District, Eastern Municipal Water District, South County Regional Wastewater Authority, West Basin Municipal Water District and the Big Bear Area Regional Wastewater Authority). Ken Al-Imam is a member of CCMA (California Committee on Municipal Accounting) and has authored a number of CCMA white papers, including recent white papers on GASB No. 34 (the new financial reporting model), GASB No. 40 (investment disclosures), and GASB No. 44 (the new statistical section). Because of our leadership role in serving local governments, Mr. Al-Imam has been appointed by GASB to serve on a select nationwide committee to assist GASB in the annual update of its Comprehensive Implementation Guide.

We will provide the financial statements of the Agency, with our independent auditors' report thereon. The financial statements will include all of the disclosures required by generally accepted accounting principles for local governmental units. We will also report to the Agency any material weaknesses in internal control or other reportable conditions that are revealed by our audit. The auditors will prepare the state controller's report for the Agency.

We will perform our audit for a fee of \$ 28,000, \$28,700, and \$29,418 for the fiscal years ending June 30, 2009, 2010, and 2011, respectively, with an option to extend the engagement for up to two additional years (years ending June 30, 2012 and 2013) at a nominal fee increase of 2.5% per year. Our client service model includes unlimited telephone consultations at no extra charge. We believe that we would be a good fit to meet your Agency's needs.

Our fees contemplate no substantive changes in the nature, scope, and extent of the audit work to be performed, including changes necessitated by audit and regulatory requirements. The Agency will provide at the start of the audit trial balances reflecting all necessary year-end adjustments, reconciliations, schedules supporting asset and liability balances, and provide assistance in the pulling of documents and the typing of confirmation requests. Should

assistance be required for our firm to prepare year end journal entries or resolve reconciliation issues, we would perform the same at the hourly rates indicated herein.

Should the Agency require additional services, including the preparation of year end adjustments, beyond the scope of the normal annual audit, we will bill you for such additional services at the following rates:

Classification

Shareholder	\$195
Manager	155
Senior Associate	115
Associate	110

The objective of our audit is the expression of an opinion about whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Our audit will be conducted in accordance with U.S. generally accepted auditing standards and will include tests of your accounting records and other procedures we consider necessary to enable us to express such an opinion. If our opinion is other than unqualified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or to issue a report as a result of this engagement.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts. We will also request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. Also, we will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations that are attributable to the Organization or to acts by management or employees acting on behalf of the Organization.

Because an audit is designed to provide reasonable, but not absolute, assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform you of any material errors that come to our attention, and we will inform you of any fraudulent financial reporting or misappropriation of assets that comes to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility, as auditors, is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors. We are not responsible for interim period reports.

Our audit will include obtaining an understanding of internal control sufficient to plan the audit and to determine the nature, timing, and extent of audit procedures to be performed. An audit is not designed to provide assurance on internal control or to identify control

deficiencies, that is, significant deficiencies or material weaknesses in the design or operation of internal control. However, during the audit, if we become aware of such control deficiencies, we will communicate them to you.

You are responsible for management decisions and functions; and for designating a competent employee to oversee any bookkeeping services, tax services, or other services we provide. You are responsible for evaluating the adequacy and results of the services performed and accepting responsibility for such services. You are responsible for establishing and maintaining internal controls, including monitoring ongoing activities.

You are responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. We will advise you about appropriate accounting principles and their application and will assist in the preparation of your financial statements, but the responsibility for the financial statements remains with you. As part of our engagement we may propose standard, adjusting, or correcting journal entries to your financial statements. You are responsible for reviewing the entries and understanding the nature of any proposed entries and the impact they have on the financial statements. Further, you are responsible for designating a competent management-level employee to be responsible and accountable for overseeing these services. This responsibility includes the establishment and maintenance of adequate records and effective internal controls over financial reporting, the selection and application of accounting principles, and the safeguarding of assets. You are responsible for adjusting the financial statements to correct material misstatements and for confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the Organization involving (a) management, (b) employees who have significant roles in internal control, and (c) others where the fraud could have a material effect on the financial statements. You are also responsible for informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Organization received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring the Organization complies with applicable laws and regulations.

During the course of our engagement, we will request information and explanations from management regarding the Organization's operations, internal controls, future plans, specific transactions, and accounting systems and procedures. At the conclusion of our engagement, we will require, as a precondition to the issuance of our report, that management provide certain representations in a written representation letter. The procedures we will perform in our engagement and the conclusions we reach as a basis for our report will be heavily influenced by the written and oral representations that we receive from management. In view of the foregoing, the Organization agrees to release our firm and its personnel from any liability and costs relating to our services under this letter resulting from false or misleading representations made to us by any member of the Organization's management.

As a result of our prior or future services to you, we might be requested to provide information or documents to you or a third party in a legal, administrative, or arbitration or similar proceeding in which we are not a party. If this occurs, our efforts in complying with such requests will be deemed billable to you as a separate engagement. We shall be entitled to compensation for our time and reasonable reimbursement for our expenses (including legal fees) in complying with the request. For all requests, we will observe the confidentiality requirements of our profession and will notify you promptly of the request.



We understand that your employees will prepare all confirmations and schedules we request and will locate any documents selected by us for testing.

Our relationship is strictly confidential. For that reason, it is our policy that we will not release any information to a third party either from our files or from material temporarily in our care without first obtaining consent from your office. It is agreed that we will provide CBIZ Accounting, Tax & Advisory Services, LLC access to your accounting, financial and other records we maintain so CBIZ Accounting, Tax & Advisory Services, LLC can provide you with tax, advisory and/or consulting services you have engaged them to perform.

Our fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee as appropriate.

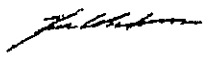
This letter and the attached Terms and Conditions set forth the rights and responsibilities of the parties with respect to the Services. The attachment is an integral part of this agreement.

We appreciate the opportunity to be of service to you. If you are in agreement with the nature, terms, and objectives of our audit engagement, please sign a copy of this letter where indicated and return it to our office.

We appreciate the opportunity to be of service to you. If you are in agreement with the nature, terms, and objectives of our audit engagement, please sign a copy of this letter where indicated and return it to our office.

Sincerely,

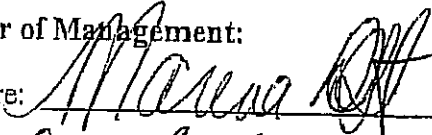
MAYER HOFFMAN MCCANN P.C.

  
Ken Al-Imam, C.P.A.  
Shareholder

\* \* \* \* \*

ACCEPTED:


Member of Management:

Signature: 

Title: General Manager

Date: April 29, 2009

Member of Board of Directors:

Signature: 

Title: President

Date: April 29, 2009

**Mayer Hoffman McCann P.C.**  
**Engagement Letter**  
**Terms and Conditions**

These Terms and Conditions and the engagement letter (and any attachments) (the "Engagement Letter"), and any subsequent amendments or addenda thereto, to which these Terms and Conditions are attached (collectively, the "Agreement") constitute the entire agreement between Client and Mayer Hoffman McCann P.C. ("MHM"), regarding the services described in the Engagement Letter. Capitalized terms not otherwise defined herein, shall have the meaning ascribed to them in the Engagement Letter.

**Services**

*Services.* MHM will provide the Services described in the Engagement Letter, and will use all reasonable efforts to perform the Services in accordance with any agreed upon timeframe. MHM has every expectation that this engagement will be conducted by the MHM professionals designated for this engagement. If for any reason any of those individuals are not able to complete this engagement, professionals with similar qualifications and experience will do so. Where any changes are necessary, MHM will give Client reasonable notice of the changes.

*Changes to Services.* Either party may request changes to the Services as set out in the Engagement Letter. Changes must be requested in writing with sufficient detail to enable the other party to assess the impact of the requested change on the cost, timing or any other aspect of the Services. Both parties agree to consider and, if appropriate, agree to any changes. Any changes must be in writing and signed by both parties. Until a change is agreed to in writing, the latest agreed upon terms will apply.

*Acceptance.* The passage of ten working days without notice of non-acceptance by Client, or use by Client of the project deliverables or outputs (each a "Deliverable"), will constitute acceptance by Client of the Deliverable. If a Deliverable is not accepted, the Client's notice must specify in reasonable detail the reasons that the Deliverable fails to meet the requirements described in this Agreement in all material respects. Upon receipt of such notice and confirmation by MHM of the Deliverable's non-conformance with the requirements of this Agreement, MHM will use commercially reasonable efforts to correct the Deliverable and upon such correction will re-submit the Deliverable to Client for review. Acceptance by Client will not be unreasonably withheld.

*Ownership.* Client shall own the copyright in all written material originated and prepared for and delivered to the Client under this Agreement. However, MHM working papers and MHM Confidential Information (as defined below) belong exclusively to MHM. The ideas, concepts, know-how, techniques, inventions, discoveries and improvements developed during the course of this Agreement by MHM personnel, alone or in conjunction with Client personnel, may be used by MHM in any way it deems appropriate, including without limitation by or for its clients or customers, without an obligation to account, notwithstanding any provision in this Agreement to the contrary. MHM is in the business of providing attestation services for a wide variety of clients and the Client understands that MHM will continue these activities. Accordingly, nothing in this Agreement shall preclude or limit MHM from providing consulting services and/or developing software or materials for itself or other clients, irrespective of the possible similarity of materials, which might be delivered to the Client.

*Confidentiality.* MHM agrees that all financial, statistical, marketing and personnel data relating to the Client's business, and other information identified as confidential by the Client, are confidential information of the Client ("Client Confidential Information"). The Client agrees that MHM proprietary software, tools and other methodologies and any other information identified as confidential by MHM, are confidential information of MHM ("MHM Confidential Information"). Client Confidential Information and MHM Confidential Information are collectively referred to as "Confidential Information." Each party shall use Confidential Information of the other party which is disclosed to it only for the purposes of this Agreement and shall not disclose such Confidential Information to any third party without the other party's prior written consent, other than to MHM subcontractors hired in connection with this engagement, if any, and to each other's employees on a need-to-know basis in connection with this engagement. Each party agrees to take measures to protect the confidentiality of the other party's Confidential Information that, in the aggregate, are no less protective than those measures it uses to protect the confidentiality of its own Confidential Information, but at a minimum, each party shall take reasonable steps to advise their employees (and, in the case of MHM, its subcontractors, if any) of the confidential nature of the Confidential Information and of the prohibitions on copying or revealing such Confidential Information contained herein. MHM and the Client each agree to require that the other party's Confidential Information be kept in a reasonably secure location.

Notwithstanding anything to the contrary contained in this Agreement, Client may convey MHM's comments and thoughts to Client's outside counsel and investment bankers provided Client accurately describes the terms, including the limitations, of MHM's engagement. Furthermore, neither party shall be obligated to treat as confidential, or otherwise be subject to the restrictions on use, disclosure or treatment contained in this Agreement for, any information disclosed by the other party (the "Disclosing Party") which: (1) is rightfully known to the recipient prior to its disclosure by the Disclosing Party; (2) is released by the Disclosing Party to any other person, firm or entity (including governmental agencies or bureaus) without restriction; (3) is independently developed by the recipient without any reliance on Confidential Information; or (4) is or later becomes publicly available without violation of this Agreement or may be lawfully obtained by a party from any nonparty. Neither party will be liable to the other for inadvertent or accidental disclosure of Confidential Information if the disclosure occurs notwithstanding the party's exercise of the same level of protection and care that such party customarily uses in safeguarding its own confidential information. Notwithstanding the foregoing, either party will be entitled to disclose Confidential Information of the other to a third party to the extent that this is required by valid legal or regulatory process, provided that (and without breaching any legal or regulatory requirement) the party to which the request is made provides the Disclosing Party with prompt written notice and allows the Disclosing Party to seek a restraining order or other appropriate relief.

We may be requested to make certain workpapers available to certain regulatory agencies pursuant to authority given to it by law or regulation. If requested, access to such workpapers will be provided under the supervision of MHM's personnel. Furthermore, upon request, we may provide photocopies of selected workpapers to certain regulatory agencies. Certain regulatory agencies may intend, or decide, to distribute the photocopies or information contained therein to others, including other government agencies.

#### **Client Responsibilities**

Client agrees to provide reasonable workspace, administrative support, computer facilities and other support, which are necessary to perform the Services; including providing high-speed Internet access to our engagement team, if practicable, while working at the Client premises. Client agrees to perform in a timely fashion those tasks and provide the personnel agreed to by

the parties. Client personnel assigned to work on matters related to this engagement will be qualified for the tasks for which they are assigned. MHM's performance is dependent on Client carrying out its responsibilities as set out in this Agreement. Client's failure to satisfy its responsibilities under this Agreement may lead to an increase in our fees, depending upon the extent to which we have to perform more work ourselves or reschedule our commitments to deliver the Services, or our inability to provide the Services. Should Client fail to perform any of its obligations under this Agreement, MHM shall not be responsible for any delay or other consequences due to such failure.

#### **Fees and Payment**

Client shall pay MHM the fees set forth in the Engagement Letter. All charges are exclusive of expenses, unless the Engagement Letter states otherwise. Client agrees to pay MHM reasonable approved travel, subsistence and out-of-pocket expenses (e.g. photocopying, printing, phone, fax and courier, etc) incurred in connection with the Services. Any special expense arrangements will be agreed and set out in the Engagement Letter. Client shall also be responsible for paying any taxes (such as applicable sales taxes, duties or goods and services taxes) for which it is legally liable arising from this Agreement at the rate in force at the date the liability arises. Our invoices will be issued as set out in the Engagement Letter. All invoices will be due upon receipt. MHM reserves the right to charge a commercial rate of interest on accounts that are overdue by more than one month. Services rendered after the expiration of the term of the engagement or in addition to the scope contemplated herein and in the Engagement Letter, such as meetings, planning, etc., will be billed separately at our hourly rates.

#### **Term and Termination**

*Term of Agreement.* This Agreement will apply from the commencement date stated in the Engagement Letter, if any, or where no commencement date is specified, from the date of signature by both parties. If MHM commenced the performance of the Services prior to the execution of this Agreement, this Agreement shall nonetheless cover the performance of such Services. This Agreement will continue until the services and deliverables have been provided unless it is terminated earlier in accordance with the terms set out elsewhere herein. MHM shall be under no duty to update or revise its opinion or report, once issued, unless expressly engaged to do so by the Client, and MHM shall be under no duty to accept any such engagement. If we accept such an engagement, we will be required to perform certain procedures required by generally accepted auditing standards. The following sections of this Agreement will survive completion of the Services or its earlier termination: Confidentiality, Ownership, and such other provisions of this Agreement which by their nature are intended to survive.

*Termination.* Either party may terminate this Agreement upon written notice to the other party irrespective of whether MHM has issued its opinion or report. Client will be responsible for fees and expenses incurred through the date termination notice is received. Where Client terminates this Agreement, Client will pay MHM for additional costs necessarily incurred as a result of early termination of the Services.

#### **General**

This Agreement forms the entire agreement between the parties relating to the Services, and replaces and supersedes any previous proposals, correspondence, understandings or other communications whether written or oral. Neither party shall be liable to the other for any delay or failure to perform any of the Services or obligations set forth in this Agreement due to causes beyond its reasonable control. If any provision of this Agreement is determined to be invalid

under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Agreement shall remain enforceable. The section headings used herein are for reference and convenience only and shall not enter into the interpretation hereof.

MHM, in furnishing services to the Client, is an independent contractor. MHM does not undertake to perform any regulatory or contractual obligation of the Client or to assume any responsibility for the Client's business or operations. No delay or omission by either party in exercising any right or power shall impair such right or power or be construed to be a waiver. A waiver by either party of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach or of any other covenant. No waiver or discharge shall be valid unless in writing and signed by an authorized representative of the party against whom such waiver or discharge is sought to be enforced. It is common practice for professional service firms such as ours, in discussions with prospective clients, to make reference to prior work, and we would like to have the opportunity to do so with respect to this assignment. Unless Client informs MHM to the contrary, on completion of this assignment we understand that we will be entitled to make reference to having undertaken it, including a brief description of its objectives, in MHM newsletters and publications and discussions with third parties regarding work opportunities.

#### **Leased personnel**

In performing our engagement we will lease professional and administrative staff, both of which are employed by CBIZ MHM, LLC or its related entities. These individuals will be under the direct control and supervision of MHM, which is solely responsible for the professional performance of our engagement. Additionally, the professional staff is subject to the standards governing the accounting profession, including the requirement to maintain the confidentiality of client information and MHM and CBIZ MHM, LLC and its related entities have contractual agreements requiring confidential treatment of all client information.

#### **Employment offers to our personnel**

Professional standards require us to be independent with respect to the Company in the performance of our services. Any discussions that the Company has with personnel of our Firm regarding potential employment with the Company could impair our independence with respect to this engagement. Therefore, we request that you inform us prior to any such discussions so that we can implement appropriate safeguards to maintain our independence and objectivity.

Employment offers to any staff member working on your engagement without our prior knowledge may require substantial additional procedures to ensure the independence and objectivity of our engagement. Any additional costs incurred due to these procedures will be fully billable in addition to our fee.

#### **Property**

The workpapers and files for this engagement are the property of MHM and constitute confidential information. However, ownership of workpapers representing original company records shall rest with you.

#### **Electronic Communication**

In the interest of facilitating our services to you, we may communicate by facsimile transmission or by sending electronic mail over the Internet. Such communications may include information that is confidential to you. Our firm employs measures in the use of facsimile machines and computer technology designed to maintain data security. While we will use our best efforts to keep such communications secure in accordance with our obligations under applicable laws and

professional standards, we have no control over the unauthorized interception of these communications once they have been sent.

### **Electronic Dissemination of Financial Statements**

With regard to the electronic dissemination of financial statements, including financial statements published electronically on your Internet website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

### **Dispute Resolution**

If any dispute, controversy or claim arises in connection with the performance or breach of this agreement, either party may, upon written notice to the other party, request that the matter be mediated. Such mediation will be conducted by a mediator appointed by and pursuant to the Rules of the American Arbitration Association or such other neutral facilitator acceptable to both parties. Both parties will exert their best efforts to discuss with each other in good faith their respective positions in an attempt to finally resolve such dispute or controversy.

Each party may disclose any facts to the other party or to the mediator which it, in good faith, considers necessary to resolve the matter. All such discussions, however, will be for the purpose of assisting in settlement efforts and will not be admissible in any subsequent litigation against the disclosing party. Except as agreed by both parties, the mediator will keep confidential all information disclosed during negotiations. The mediator may not act as a witness for either party in any subsequent arbitration between the parties.

The mediation proceedings will conclude within sixty days from receipt of the written notice unless extended or terminated sooner by mutual consent. Each party will be responsible for its own expenses. The fees and expenses of the mediator, if any, will be borne equally by the parties.

In the unlikely event that differences arise between the parties related to or arising from this Agreement that are not resolved by mutual agreement, to facilitate a judicial resolution and save time and expense of both parties, Client and MHM agree not to demand a trial by jury in any action, proceeding or counterclaim.

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

**Meeting Date:** February 22, 2011

**To:** Board of Directors

**Budgeted:** Yes

**Budgeted Amount:** \$80,000

**Cost:** on-going

**Funding Source:** Budget line: 56007

**From:** Marina D. West

**General Counsel Approval:** N/A

**CEQA Compliance:** N/A

**Subject:** Contract Services Agreement for General and Special Legal Counsel Services between Bighorn-Desert View Water Agency and Aleshire & Wynder, LLP

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**SUMMARY**

Staff has been informed that the Agency's attorney Ms. Susan Trager has recently joined the law firm of Aleshire & Wynder, LLP with the title "Of Counsel" but that her frequent and close participation in Agency legal matters will rapidly diminish as she proceeds towards retirement.

Due to a variety of complex legal issues currently before the Board, the Agency is not capable of continuing without immediately accessible legal representation. Staff recommends that the Board approve the Agreement with Aleshire & Wynder, LLP as an interim measure.

Staff further recommends that the Board initiate a competitive process in order to formally appoint an Agency attorney pursuant to Section 112-14 of the Bighorn-Desert View Water Agency Law.

**RECOMMENDATION**

That the Board take the following action:

- a. Authorize the General Manager to enter into a Contract Services Agreement for General and Special Legal Counsel Services with Aleshire & Wynder, LLP; and
- b. Provide direction to General Manager on Board's desire to initiate a competitive solicitation process for appointment of an Agency attorney pursuant to Section 112-14 of the Bighorn-Desert View Water Agency Law.

**BACKGROUND/ANALYSIS**

Staff has been informed that General Counsel Susan Trager has recently joined the law firm of Aleshire & Wynder, LLP (A&W) with the title "Of Counsel". By definition "Of Counsel" is often the title of an attorney who is employed by a law firm or an organization, but is not an associate or a partner. Moreover, staff has been told that Ms. Trager's frequent and close

participation in Agency legal matters will rapidly diminish as she proceeds towards full retirement from service to the Agency.

Due to a variety of complex legal issues currently before the Board, the Agency is not able to continue without immediately accessible legal representation. However, the reality is that representation to the Agency will soon exclude Ms. Trager.

Staff recommends that the Board approve the Agreement with A&W as an interim measure. A&W has met with staff to discuss the transitional issues. Their contractual rates for legal services are actually lower than the existing contractual rates under SmithTrager LLP. Staff is confident that A&W can provide the assistance needed during this transition period. A&W has assured staff that while the firm represents the Town of Yucca Valley, they have no professional conflict of interest in simultaneously representing Bighorn-Desert View Water Agency. Attached are the profiles for Mr. Aleshire and Mr. Miliband who are committed to serving the Agency on existing legal matters. In addition, the Contract includes current Special Counsel representation by Mr. Bradley Neufeld (Gresham, Savage, Nolan & Tilden) on Agency personnel matters and Mr. James Markman (Richard, Watson and Gershon) for matters pertaining to Ames/Reche Management Plan contracted to Todd Engineers under the EPA STAG grant.

Since the Board was not more formally introduced to this transition and thus given time to fully consider the matter, staff further recommends that a competitive proposal process be initiated. This would include the Board's participation in requesting and reviewing proposals from additional legal firms. Following completion of this process the Board would then make a formal appointment of an Agency Attorney pursuant to Section 112-14 of the Bighorn-Desert View Water Agency Law. In the meantime, Ms. Trager will remain the Agency's appointed attorney.

#### **PRIOR RELEVANT BOARD ACTION(S)**

4/24/2007 07R-02 Resolution Appointing Susan Trager of the Law Offices of Susan Trager as the Agency Attorney pursuant to Section 112-14 of the Bighorn-Desert View Water Agency Law.





## ALESHIRE & WYNDER, LLP

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### Our Values

#### PRACTICE AREAS

Code Enforcement  
Conflicts & Ethics  
Contracts & Public Works  
Education  
Elections  
Environment & Toxics  
Franchises & Utilities  
Labor & Employment  
Land Use & Zoning  
Law Enforcement  
Litigation  
Mining  
Municipal Organization  
Native Americans  
Property Acquisition &

#### Takings

Public Finance  
Redevelopment & Housing  
Rent Control  
Risk Management & Torts  
Solid Waste  
Water

### Attorneys

Select an Attorney...

#### David J. Aleshire

Partner

(949) 223-1170 ext. 5409 • [daleshire@awattorneys.com](mailto:daleshire@awattorneys.com)



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Mr. Aleshire has been practicing municipal law, environmental, redevelopment, franchising, municipal, and zoning and land use law since graduating from UCLA with a J.D. in 1975 and M.A. in urban planning in 1976. Mr. Aleshire graduated *Phi Beta Kappa* from Stanford University in 1972. Mr. Aleshire has been AV® rated by Martindale-Hubbell's peer review rating process, which reflects the highest level of skill and integrity. He was named a Southern California Super Lawyer in 2009 and 2010. Mr. Aleshire's life-long devotion to public service has been the result of his efforts to emulate his father, a city manager for 35 years for seven different cities.

Mr. Aleshire has served as City Attorney or Assistant City Attorney for 12 different cities, including Banning, Palm Springs, Irvine, Cerritos, Norwalk, Signal Hill, San Dimas, Lawndale, Irwindale, San Jacinto, Suisun City, Peris and the County of Los Angeles. He has had long stints as City Attorney at Palm Springs (15 years), Lawndale (17 years), and Irwindale (10 years). He has been City Attorney of Signal Hill since 1985, Banning since 2008, and Suisun City since 2009. Cumulatively he has over 60 years of City Attorney service.

Mr. Aleshire has continued to specialize in redevelopment and housing law. In his early years, he represented the redevelopment or housing agencies of the cities of Los Angeles, Santa Monica, Culver City, Monterey Park, Cerritos, and the County of Los Angeles. In the last decade, his work has been primarily with the agencies of Signal Hill, Palm Springs, Irwindale, Carson, and Bakersfield.

Major projects and programs Mr. Aleshire has accomplished during his career include:

- Creation of the Signal Hill Auto Center now approaching 50 acres



#### Practice Areas

Conflicts & Ethics  
Contracts & Public Works  
Environment & Toxics  
Franchises & Utilities  
Land Use & Zoning  
Mining  
Municipal Organization  
Native Americans  
Property Acquisition & Takings  
Public Finance  
Redevelopment & Housing  
Solid Waste

#### Education

UCLA - JD 1975; MA  
Urban Planning 1976

Stanford University - BA  
1972, Phi Beta Kappa

#### Current Offices Held

City Attorney - Banning,  
Signal Hill, Suisun City

Housing Agency Counsel -  
Signal Hill

Special Counsel -  
Mammoth Lakes, Rialto,  
Bakersfield  
Redevelopment Agency

with some 15 brands, and generating over \$3M in annual sales taxes to the City.

- Development of the Signal Hill Town Center including big box users such as Costco and Home Depot, but also encompassing the community's only market, Food-4-Less.
- Overcoming numerous issues in transforming the historic 1 billion barrel Signal Hill oil field, in continuous production for 75 years, with complex contamination issues, into a beautiful community with a vibrant local economy.
- Developing a Palm Springs power center with Lowes, Home Depot, and WalMart, located partially on a former municipal landfill site, and successfully defending the project from environmental challenges.
- Developing an Indian Gaming Casino in Palm Springs including negotiating a DDA with a tribal government and successfully defending a lawsuit by the California Attorney General.
- Reclamation of a 126-acre Irwindale mining pit and developing a 2.5 million square foot mixed use project through a development agreement with Trammel Crow (winner of a prestigious Gold Nugget Award).
- Negotiating a development and financing agreement for an \$800 million dollar entertainment and mixed use project with Lennar on a 157-acre site on a former landfill (including a \$100 million dollar site remediation program).
- Negotiating development agreements for 1000+ acre projects for hotel, golf course, and residential development and dealing with sensitive environmental and endangered species issues.
- Developing major public projects including expanding the Palm Springs Convention Center twice, a championship 36-hole golf course, sewer wastewater plant expansions, parking structures, several city halls and police stations, and numerous water reservoir and other water improvements.
- Master planning the Palm Springs Airport and undertaking numerous runway and terminal expansions including developing innovative passenger facility charge financing.
- Developing an innovative franchise program for the Town of Mammoth Lakes to facilitate underground delivery of gas to customers and requiring the franchisee to provide pipeline capacity to other suppliers.
- Overseeing Palm Springs' municipalization of energy program to find a national non-Edison supplier of energy services and reduce customer charges by 15%.
- Negotiating lease agreements to privatize Palm Springs' wastewater treatment plant with US Filter, a Fortune 500 company.
- Negotiating many innovative, award-winning affordable housing projects including in Signal Hill alone: A \$9 million, 40-unit, affordable moderate income single family detached project; and a \$20 million, 92-unit, low and very low income family project, including a park, child care center and police substation. (This last project, Las Brisas, won the League of California Cities' prestigious

Helen Putman award in 2006).

- Overseeing a long term program for Irwindale to require reclamation of multiple 100+ acre mining pits with depths of over 300 feet, and achieving development agreements providing for reclamation, payment of the highest mining taxes in the state, and infrastructure development.
- Forming and representing special purpose agencies, including community service districts and joint powers authorities.

He has been a speaker and authored various articles on municipal law including the subjects of municipal investment, takings, redevelopment, casino gaming, mixed use development and others, and served as Adjunct Professor of Municipal Law at Southwestern University.

#### ***Public Offices***

##### **City Attorney & Redevelopment Agency Counsel**

Banning (2008-present)  
Signal Hill (1985-present)  
Suisun City (2009-present)  
Irwindale (1996-2003; 2006)  
Lawndale (1983-95)  
Palm Springs (1990-2005)  
Perris (2000-02)  
San Jacinto (1998-2000)

##### **Redevelopment Agency Counsel**

Bakersfield Special Counsel (2008-present)  
Carson (2003-06)

##### **Housing Agency Counsel**

Signal Hill (1985-present)  
Irwindale (1996-2003; 2006-07)  
Palm Springs (1990-2005)

##### **Special Counsel**

Rialto (2008-present)  
Mammoth Lakes (2000-present)

##### **General Counsel**

Joint Power Employee Benefit Authority (1987-98)  
Rossmoor Community Services District (1987-90)  
Spring St. Corridor Joint Powers Authority (1995-98)

##### **Assistant City Attorney**

Irvine (1986-89)  
Cerritos (1978-85)  
Norwalk (1978-85)  
San Dimas (1978-85)

**Assistant Counsel**

Cerritos Redevelopment Agency (1978-85)  
Norwalk Redevelopment Agency (1983-85)  
Norwalk Housing Agency (1978-85)  
San Dimas Redevelopment Agency (1978-85)  
Monterey Park Redevelopment Agency (1981-85)  
LA County Housing Authority (1982-85)  
LA Redevelopment Agency (1976-77)

**Honors**

AV® Martindale-Hubbell Peer Review Rated  
Southern California Super Lawyers 2009, 2010

**Affiliations**

League of California Cities  
California Redevelopment Association  
American Planning Association  
LA County City Attorney Association  
Orange County City Attorney Association  
Adjunct Professor of Law  
Southwestern University Law School (1980-84)  
Boy Scouts of America, Scoutmaster (1995-present)

**Admissions**

State Bar of California  
US Court of Appeals, 9th Circuit  
US District Court, Central District of CA

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#### PRACTICE AREAS

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Conflicts & Ethics  
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Elections  
Environment & Toxics  
Franchises & Utilities  
Labor & Employment  
Land Use & Zoning  
Law Enforcement  
Litigation  
Mining  
Municipal Organization  
Native Americans  
Property Acquisition &

#### Takings

Public Finance  
Redevelopment & Housing  
Rent Control  
Risk Management & Torts  
Solid Waste  
Water

### Attorneys

Select an Attorney...

#### Wesley A. Milliband

##### Attorney

949-223-1170 ext. 5416 • [wmilliband@awattorneys.com](mailto:wmilliband@awattorneys.com)



Wesley A. Milliband is an Associate of the Firm. He concentrates his practice in litigation matters relating to water, land use and zoning, and contracts. Mr. Milliband has successfully represented public entities in numerous litigation matters during trial, arbitrations and mediations, as well as through dispositive law and motion practice including demurrer and summary judgment. He has co-chaired a three-week jury trial involving road design issues and wrongful death allegations against a city and other public entities. In a land use and zoning matter, Mr. Milliband obtained a judgment for a city that includes monetary and injunctive relief by prohibiting operation of "boarding houses" in a single-family residential area. He also has obtained in a breach of contract matter a significant monetary judgment for a city and redevelopment agency based on misuse of public funds.

Mr. Milliband particularly enjoys litigating and counseling clients on matters relating to water rights, quality and conservation. He represents public entities in litigation matters pending before State courts and before administrative forums including the State Water Resources Control Board and the California Public Utilities Commission. Mr. Milliband advises and advocates on behalf of cities regarding acquisition of water systems, purchase and sale agreements involving water rights, and water franchise agreements with water purveyors. He also advises clients regarding compliance with NPDES (National Pollutant Discharge Elimination System) permits in connection with stormwater runoff, and Mr. Milliband has drafted an *Amicus* brief for a matter pending before the California Court of Appeal involving the State's development of water quality standards for stormwater runoff. In furtherance of counseling cities and water districts on implementing enforcement regulations and conservation programs, Mr. Milliband drafts various ordinances and local water code provisions.

Prior to joining the Firm, Mr. Milliband served as a Deputy District Attorney in Orange County. His significant courtroom experience included the prosecution of twenty cases before a jury and several more before the Court. Mr. Milliband obtained convictions in numerous cases involving



#### Practice Areas

Contracts & Public Works  
Environment & Toxics  
Land Use & Zoning  
Law Enforcement  
Litigation  
Risk Management & Torts  
Water

#### Education

Chapman University Law School - JD, Emphasis in Environmental, Land Use, & Real Estate Law 2005

Rutgers University - MA Public Affairs & Politics, Fellow of the Eagleton Institute of Politics 2000

University of California, Riverside - BA Political Science/Law & Society 1999

#### Current Offices Held

Special Counsel - Newport Beach, Huntington Beach Wetlands Conservancy

assault and battery on law enforcement officers, and he successfully defeated allegations of excessive force and false arrest. He also litigated various pre-trial motions relating to police searches and seizures.

Mr. Miliband obtained his law degree from Chapman University School of Law. While there, he was a member of the Mock Trial Board, and concentrated his studies in Environmental, Land Use, and Real Estate law. Mr. Miliband also acquired a Master of Arts in Public Affairs and Politics from Rutgers University, where he was a Fellow of the Eagleton Institute of Politics. During his studies, he analyzed and presented data to the State of New Jersey's Department of Labor on labor-market trends for the State's unemployed residents.

Before attending law school, Mr. Miliband was a staff member to former Representative Christopher Cox, where he was responsible for assisting constituents in resolving questions or disputes concerning the federal government. Mr. Miliband frequently appeared on behalf of Congressman Cox at various community events, requiring him to speak before large audiences.

Mr. Miliband's personal interests include scuba diving, cycling and photography.

#### ***Positions Held***

##### **Special Counsel**

City of Newport Beach (2008 - present)

Huntington Beach Wetlands Conservancy (2010 - present)

##### ***Affiliations***

American Bar Association

Federal Bar Association

California Bar Association (Litigation Section)

Orange County Bar Association (Young Lawyers Division)

Constitutional Rights Foundation, Orange County - Volunteer Attorney

Scorekeeper for High School Mock Trial Competitions

Chapman University School of Law - Participant in Mentor Program

##### ***Admissions***

State Bar of California

Central District of California

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**CONTRACT SERVICES AGREEMENT FOR  
LEGAL COUNSEL SERVICES  
BIGHORN-DESERT VIEW WATER AGENCY**

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This CONTRACT SERVICES AGREEMENT FOR SPECIAL COUNSEL SERVICES (the "Agreement") is effective as of the \_\_\_ day of February, 2011 by and between the law firm of ALESHIRE & WYNDER, LLP, a California limited liability partnership ("A&W"), and the Bighorn-Desert View Water Agency, a special district ("Agency").

**1. APPOINTMENT**

Susan Trager ("Trager") of Smith and Trager serve as General Counsel to Agency. Trager has become "Of Counsel" to A&W, a firm specializing in public law with attorneys in specialty practice areas needed by public agencies. Trager sought the support services of A&W and A&W was seeking to strengthen its water practice.

Agency hereby appoints David J. Aleshire as Legal Counsel, and hires A&W therefore to render the legal services as specified herein, including for water, environmental, special Agency, and public law legal services as specified herein, under the direction of the General Manager, Marina West, and Agency Counsel.

A&W represents that it employs, or will employ at its own expense, all personnel required for the satisfactory performance of any and all tasks and services set forth herein. A&W shall not replace the designated Legal Counsel (or any successors to such person) without the Agency's prior approval.

**2. SCOPE OF WORK AND DUTIES**

A. A&W will provide representation to Agency in legal matters as assigned.

B. Counsel will keep Agency informed as to the progress and status of all pending matters in accordance with such procedures as the Agency may establish from time to time. The Counsel is expected to manage, control and oversee the delivery of legal services in a competent, professional, and cost-effective manner. All legal services shall be properly supervised and all personnel shall be qualified to handle the work assigned.

C. All legal services shall be coordinated under the direction of the General Manager and Agency Counsel. Notwithstanding any other provision contained herein, any legal services can only be authorized by the Agency Manager. Nothing in this Agreement shall be construed in any manner as limiting the ultimate and absolute discretion of the General Manager or Agency Board, at any time, to assign or reassign any legal matter of Agency from or to A&W.

**3. AGENCY DUTIES**

Agency agrees to provide such information, assistance, cooperation, and access to books, records, and other information, as is necessary for A&W to effectively render its professional

services under this Agreement. To the extent Agency desires services to be rendered on site, Agency, at Agency's expense, will make available sufficient office space, furniture, telephones, computers, facsimile machines, and secretarial support, as approved by the Agency Manager, as may be necessary therefor. Agency further agrees to abide by this Agreement, and to timely pay A&W's bills for fees, costs, and expenses.

#### **4. PERSONNEL**

In addition to David J. Aleshire acting as Legal Counsel, A&W will provide additional attorneys who are qualified and have the expertise to render the predominate legal services hereunder. Deputy Counsel shall be Wesley A. Miliband. Attached as Exhibit B, incorporated herein by this reference, is a list of attorneys available to provide the services herein.

Assignments may be modified as provided in Section 2 above and except as so provided, A&W will exercise its discretion to utilize whichever attorney(s) (and staff) it determines to be best suited to its rendition of legal services under this Agreement, consistent with the competent and efficient rendering of legal services, and with a view toward rendering such services in an economically efficient manner.

#### **5. COMPENSATION**

A&W's fees will be charged on an hourly basis for all time actually expended. The compensation schedules are set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

The foregoing rates would remain in effect for at least Fiscal Years 2010-2012 (July 1, 2012). The hourly rates of the attorneys at A&W are reviewed annually and, when appropriate, adjusted to reflect increases in expertise as well as other appropriate factors. Such increases are made on an annual basis, effective as of the beginning of each calendar year, except as noted herein.

#### **6. COSTS AND OTHER CHARGES**

A&W may incur various costs and expenses in rendering the legal services required by this Agreement which, if customary and necessary for the performance of legal services hereunder, shall be reimbursable by Agency. These costs and expenses are described in more detail in Exhibit "A-1". Agency agrees to reimburse A&W for these costs and expenses in addition to the hourly fees for legal services. Reimbursable costs shall not include any overhead or administrative charge by A&W or A&W's cost of equipment or supplies except as provided herein.

A&W may determine it necessary or appropriate to use one or more outside investigators, consultants, or experts in rendering the legal services required (particularly if a matter goes into litigation). Agency will be responsible for paying such fees and charges. A&W will not, however, retain the services of any outside investigators, consultants, or experts without the prior agreement of Agency. A&W will select any investigators, consultants, or experts to be hired only after consultation with Agency.



The cost and expenses referred to herein include certain travel expenses; transportation, meals, and lodging; when incurred on behalf of the client. Generally, except in connection with litigation (travel costs to court and for discovery are chargeable), these will only be charged when outside of the area, and only with the prior agreement of Agency.

Finally, periodically, when on-site, A&W personnel may be required to make local and long-distance telephone calls, or make photocopies, or incur other expenses on behalf of the Agency as well as other clients. A&W will not be charged for such expenses and, in exchange, will not charge the Agency for calls made from our office or other locations to the Agency.

## **7. STATEMENTS AND PAYMENT**

A&W shall render to Agency a statement for fees, costs, and expenses incurred on a periodic basis (generally monthly). Such statement(s) shall indicate the basis of the fees, including the hours worked, the hourly rate(s), and a brief description of the work performed. Separate billing categories can be established to track costs associated with Agency funding categories or to track project costs, or such other basis as the Agency may direct. Reimbursable costs shall be separately itemized.

Payments shall be made by Agency within thirty (30) days of receipt of the statement, except for those specific items on an invoice which are contested or questioned and are returned by Agency with a written explanation of the question or contest, within thirty (30) days of receipt of the invoice. Payments made more than thirty (30) days after the due date shall draw interest at the legal rate.

## **8. PROHIBITION AGAINST SUBCONTRACTING OR ASSIGNMENT**

The experience, knowledge, capability and reputation of A&W, its partners, associates, and employees, was a substantial inducement for Agency to enter into this Agreement. Therefore, A&W shall not contract with any other person or entity to perform, in whole or in part, the legal services required under this Agreement without the written approval of Agency. In addition, neither this Agreement, nor any interest herein, may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily, or by operation of law, whether for the benefit of creditors, or otherwise, without the prior written approval of Agency. Adding attorneys to A&W, changes in the partnership, name changes and similar changes shall not be deemed a transfer or assignment requiring approval of Agency or amendment hereof. Notwithstanding the foregoing, the following subcontractors are approved: James Markman of Richards Watson and Gershon; Bradley E. Neufeld of Gresham Savage Nolan & Tilden.

## **9. INDEPENDENT CONTRACTOR**

A&W shall perform all legal services required under this Agreement as an independent contractor of Agency, and shall remain, at all times as to Agency, a wholly independent contractor with only such obligations as are required under this Agreement. Neither Agency, nor any of its employees, shall have any control over the manner, mode, or means by which A&W, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth. Agency shall have no voice in the selection, discharge, supervision or

control of A&W employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service.

#### **10. INSURANCE**

A&W shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to Agency, during the entire term of this Agreement, including any extension thereof, the following policies of insurance:

(a) Comprehensive General Liability Insurance. A policy of comprehensive general liability insurance written on a per occurrence basis in an amount not less than a combined single limit of One Million Dollars (\$1,000,000.00), and One Million Dollars (\$1,000,000.00) products and completed operations.

(b) Workers' Compensation Insurance. A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both A&W and Agency against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the District in the course of carrying out the work or services contemplated in this Agreement.

(c) Automobile Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than a combined single limit liability of One Million Dollars (\$1,000,000.00). Said policy shall include coverage for owner, non-owner, leased and hired cars.

(d) Errors and Omissions Insurance. A policy of professional liability insurance written on a claims made basis in an amount not less than Three Million Dollars (\$3,000,000.00).

Except for the policy of professional liability insurance, all of the above policies of insurance shall be primary insurance and shall name Agency, its officers, employers and agents as additionally insured. Except for the policy of professional liability insurance, the insurer shall waive all rights of subrogation and contribution it may have against the Agency, its officers, employees and agents and their respective insurers. Except for the policy of professional liability insurance, all of said policies of insurance shall provide that said insurance may not be amended or canceled without providing thirty (30) days prior written notice by registered mail to the Agency. In the event any of said policies of insurance are cancelled, the attorney shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section to the Agency. Failure to do so is cause for termination.

#### **11. INDEMNIFICATION**

A&W agrees to indemnify Agency, its officers, employees and agents against, and will hold and save each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the work, operations or activities of A&W, its agents, employees, subcontractors, or invitees, provided for herein or arising from the acts or omissions of A&W

hereunder, or arising from A&W's performance of or failure to perform any term, provision, covenant or condition of this Agreement, except to the extent such claims or liabilities arise from the negligence or willful misconduct of Agency, its officers, agents or employees.

## **12. NOTICES**

Notices required pursuant to this Agreement shall be given by personal service upon the party to be notified, or by delivery of same into the custody of the United States Postal Service, or its lawful successor; postage prepaid and addressed as follows:

AGENCY: Bighorn-Desert View Water Agency  
622 South Jemez Trail  
Yucca Valley CA., 92284  
(760) 364-2315 (Office)  
(760) 364-3412 (Fax)  
Attention: Marina West, Agency Manager

ATTORNEY: Aleshire & Wynder, LLP  
18881 Von Karman Avenue, Suite 400  
Irvine, California 92612  
(949) 223-1170 (office)  
(949) 223-1180 (fax)  
Attention: David J. Aleshire, Esq.

Service of a notice by personal service shall be deemed to have been given as of the date of such personal service. Notice given by deposit with the United States Postal Service shall be deemed to have been given two (2) consecutive business days following the deposit of the same in the custody of said Postal Service. Either party hereto may, from time to time, by written notice to the other, designate a different address or person which shall be substituted for that specified above.

## **13. NON-DISCRIMINATION**

In connection with the execution of this Agreement, A&W shall not discriminate against any employee or applicant for employment because of race, religion, marital status, color, sex, handicap, sexual persuasion, or national origin. A&W shall take affirmative action to ensure that applicants are employed, and that employees are treated fairly during their employment, without regard to their race, religion, color, sex, marital status, handicap, sexual persuasion, or national origin. Such actions shall include, but not be limited to the following: employment, promotion, demotion, transfer, duties assignment; recruitment or recruitment advertising; layoff of termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

## **14. TERM, DISCHARGE AND WITHDRAWAL**

This Agreement shall continue in effect, subject to modification of fees as provided in Section 5, until terminated by either party hereto. Agency may discharge A&W at any time. The Special Counsel shall have no right to hearing or notice, and may be discharged with or

without notice. A&W may withdraw from Agency's representation at any time, to the extent permitted by law, and the Rules of Professional Conduct, upon at least sixty (60) days' notice to Agency.

In the event of such discharge or withdrawal, Agency will pay A&W professional fees and costs, in accordance with this Agreement, for all work done (and costs incurred) through the date of cessation of legal representation. Agency agrees to execute, upon request, a stipulation in such form as to permit A&W to withdraw as Agency's attorneys of record in any legal action then pending. A&W shall deliver all documents and records of Agency to Agency, or to counsel designated by Agency, and assist to the fullest extent possible in the orderly transition of all pending matters to Agency's special counsel.

#### **15. CONFLICTS**

A&W has no present or contemplated employment which is adverse to the Agency. A&W agrees that it shall not represent clients in matters either litigation or non-litigation against the Agency. A&W is City Attorney to the Town of Yucca Valley. A&W may have past and present clients or may have future clients, which, from time to time, may have interests adverse to Agency, and A&W reserves the right to represent such clients in matters not connected with its representation of the Agency.

If a potential conflict of interest arises in A&W's representation of two clients, if such conflict is only speculative or minor, A&W shall seek waivers from each client with regards to such representation. However, if real conflicts exist, A&W would withdraw from representing either client in the matter, and assist them in obtaining outside special counsel.

#### **16. ATTORNEY FEES AND COSTS**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorneys' fees directly arising from a third-party legal action against a party hereto and payable under the indemnification and insurance provisions of this Agreement.

#### **17. VENUE**

The venue of any action or claim brought by any party to this Agreement will be in San Bernardino County. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third-party, the parties hereto agree to use their best efforts to obtain a change of venue to San Bernardino County.

#### **18. LABOR LAWS**

A&W shall strictly adhere to the applicable provisions of the Labor Code regarding the employment of apprentices; minimum wages; travel and subsistence pay; retention and inspection of payroll records; workers compensation; payment of wages. A&W shall forfeit to the Agency the penalties prescribed in the Labor Code for violations.

**19. INTERPRETATION OF AGREEMENT AND FORUM**

This Agreement shall be construed and interpreted both as to validity and performance of the parties in accordance with the laws of the State of California. In the event of any dispute hereunder, forum shall be the Superior Court, San Bernardino County.

**20. INTEGRATED AGREEMENT; AMENDMENT**

This Agreement contains all of the agreement of the parties and cannot be amended or modified except by written agreement. This Agreement shall supercede that certain agreement for special counsel services previously entered into between the parties. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

**21. CORPORATE AUTHORITY**

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that in so executing this Agreement the parties hereto are formally bound to the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of execution by the Agency.

Dated: February \_\_, 2011

**"BIGHORN-DESERT VIEW WATER AGENCY"**, a special district

By: \_\_\_\_\_  
Marina West, General Manager

ATTEST:

\_\_\_\_\_

Dated: February \_\_, 2011

**"ALESHIRE & WYNDER, LLP"**

By: \_\_\_\_\_  
David J. Aleshire, Esq.

**EXHIBIT "A"**  
**COMPENSATION AND REIMBURSEMENT**

**A. Special Counsel or "Extraordinary Services"**

With respect to the legal services provided hereunder we would bill at the following hourly rates:

<b>Senior Counsel</b>	<b>\$275</b>
<b>Partners</b>	<b>\$250</b>
<b>Associates</b>	<b>\$210</b>
<b>Paralegal</b>	<b>\$170</b>

We emphasize that the foregoing is a proposal, and we would be happy to discuss alternate arrangements.

**B. Cost Reimbursement**

Our billing practices, method of expense reimbursement, and similar matters are discussed in the Statement of Billing Practices attached to this Exhibit as Attachment A-1.

"EXHIBIT A-1"  
**STATEMENT OF BILLING PRACTICES**

The Firm's fees are charged on an hourly basis for all time actually expended and are generally billed monthly with payment due within thirty (30) days after the date of the bill. However, where contract rates are established, they prevail over design rates. The current hourly design rate for the attorneys and staff working on this matter will be set forth in the billing statement. Annually, you will be provided with the prevailing hourly design rates for the attorneys who will spend the predominate amount of time on this matter. It should be understood that hourly rates are reviewed, and when appropriate, adjusted to reflect increases in seniority and experience as well as inflationary factors. These increases are generally made on an annual basis effective at the beginning of each calendar year.

The Firm will incur various costs and expenses in performing legal services. These costs and expenses are separately billed to the client and include fees fixed by law or assessed by public agencies, litigation costs including deposition, reporter fees, and transcript fees, long distance telephone calls, messenger and other delivery fees, postage, photocopying (charge of twenty cents (\$.20) per page) and other reproduction costs, staff overtime when necessitated and authorized by the client, and computer-assisted research fees when authorized by the client, all based on the actual and reasonable cost (mileage, reproduction and other costs are periodically adjusted in accordance with the Firm's actual costs).

Travel costs including mileage (current IRS rate), parking, airfare, lodging, meals, and incidentals are charged in connection with administrative or judicial proceedings, or when traveling outside of Orange County. Travel time may also be charged in connection with such proceedings. In addition, the client will be responsible for paying the fees of consultants and other outside experts who are retained after consultation with the client.

It is understood that Firm will generally charge for mileage between our office and District facilities, but not for local telephone calls or calls made to the District. Additionally, travel time shall be only be charged for half of the actual time for such trips. In exchange, Firm shall not be charged for calls made or received at the District, whether local or long-distance, or for copying charges since copying onsite will reduce the charge to the client.

The monthly billing statements for fees and costs shall indicate the basis of the fees, including a detailed and auditable breakdown of the hours worked, the billable rates charged and description of the work performed. All bills are expected to be paid within thirty (30) days of the date of the billing statement. In the event any statement remains unpaid for more than thirty (30) days after the date of the statement, interest thereon at the rate of ten percent (10%) per annum shall be due and payable thereafter on the unpaid balance.

Registration fees for attorneys attending conferences and seminars are paid by the Firm and are never charged to the District (unless expressly requested by the District).



Attorney	Education		Yrs of Practice	City Attorney	Assistant/Deputy City Attorney	Representative Public Clients
June Ailin	JD 1983	University of Texas Law School With Honors	28		Bellflower ('07- ) Lompoc ('09- ) Palos Verdes Est ('05-10)	Assistant Agency Counsel: Baldwin Park ('08- ) Bellflower ('08- ) Lompoc ('09- )
David Aleshire	JD 1975 MA 1976 BA 1972	UCLA Law School UCLA, Urban Planning Stanford University Phi Beta Kappa	35	Banning ('08- ) Signal Hill ('85- ) Suisun City ('09- ) Inwindale ('96-03, '06-07) Lawndale ('83-95) Palm Springs ('90-05) Perris ('00-02) San Jacinto ('98-00)	Lawndale ('78-83) Signal Hill ('78-85) Irvine ('86-89) Cerritos ('78-85) Norwalk ('78-85) San Dimas ('78-85)	Bakersfield Redevelopment Agency Special Counsel: Mammoth Lakes ('00- ) Rialto ('08- ) Carson RDA ('04-06) Rossmore CSD ('87-92) BASTA in Bell recall (2010)
Lesley Cheung	JD 2006 BA 2003	University of Southern California Cornell University	5		Lawndale ('09- )	City Prosecutor Lawndale ('07- ) Specialty: Asst. Labor & Employment Counsel
Eric Dunn	JD 1995 BA 1989	Western State University Law Review Magna cum laude Southern Illinois University Magna cum laude	16	Hesperia ('07- ) Perris ('02- )	Perris ('00-02) Signal Hill ('96-01) Twenty-Nine Palms ('97-00)	
Fred Galante	JD 1995 BA 1992	Loyola Law School St Thomas Moore Law Honor Society Cal State University, Northridge	16	Inwindale ('03- ) Lynwood ('08- )	Carson ('03-'10) Inwindale ('96-03) Irvine ('97-01) Palm Springs ('97-03)	Home Gardens County Water District ('99- ) Orange County Council of Gov'ts ('01- )

Attorney	Education		Yrs of Practice	City Attorney	Assistant/Deputy City Attorney	Representative Public Clients
Milly Huntley	JD 2004 BA 1998	Pepperdine Law School Cornell University	7			
Tiffany Israel	JD 1996 BA 1993	University of San Diego University of Southern California <i>Cum laude</i>	15	Lawndale ('07- )	Lawndale ('03-07) Palm Springs ('03-05)	Lawndale Housing Authority ('07- ) Hesperia RDA Assistant ('07-'10) Lynwood RDA Assistant ('08-'10) Special Counsel: Newport Beach ('07- ) Bakersfield ('10- )
Alex Johnson	JD 2008 BA 2005	University of Southern California <i>Order of the Coif</i> Northwestern University	3			
Gina Kim	JD 2007 BA 2001	University of Minnesota Law School <i>Minnesota Law Review, Editor</i> <i>Cum laude</i> UCLA <i>Cum laude</i>	4			
Adrienne Konigair-Macklin	JD 1984 BA 1981	Hastings College of Law Univ of CA, Irvine/Dartmouth College <i>Joint Degree Program</i>	27		Carson ('10- )	Adelanto USD Board Counsel ('09- ) Pomona USD Gen'l Counsel. ('90-97) Inglewood USD Gen'l Counsel('03-08) LAUSD Division Counsel ('97-03)
Dave Kwon	JD 2008 BA 2004	UCLA Law School University of CA, Irvine	2			
Lona Laymon	JD 2001 BA 1998	University of Southern California <i>Law Review</i> University of CA, Irvine <i>Dual BA</i> <i>Magna cum laude</i> <i>Summa cum laude</i> <i>Phi Beta Kappa</i>	10	Town of Yucca Valley ('10- )	Banning ('10- ) Duarte ('04-'08)	

Attorney	Education		Yrs of Practice	City Attorney	Assistant/Deputy City Attorney	Representative Public Clients
Pam Lee	JD 2006 BA 2002	University of Southern California UCLA <i>Phi Beta Kappa</i> <i>Magna cum laude</i>	5		Inwindale ('09- ) Lynwood ('09- ) Yucca Valley ('09- )	Deputy City Prosecutor: Lynwood ('09- ) Cypress ('07- ) Lawndale ('07-'09) Assistant RDA Counsel: Carson ('08- ) Anaheim Transportation Authority
Christy Lopez	JD 2002 BA 1999	Catholic University <i>Best Oralist, Moot Court</i> San Diego State University	9		Baldwin Park ('08- )	
Anita Luck	JD 1998 BA 1990	Loyola Law School University of CA, Santa Barbara	13		Perris ('05- )	
Jeff Malawy	JD 2007 BA 2004 BS 2004	University of Southern California University of CA, Berkeley University of CA, Berkeley	4		Hesperia ('10- ) Signal Hill ('08-'10)	
Lucy Manfre	JD 1999 BA 1991	McGeorge School of Law University of Southern California	12			
Wes Miliband	JD 2005 MA 2000 BA 1999	Chapman Law School Rutgers University University of CA, Riverside	6		Lompoc ('10- )	Special Counsel: Newport Beach ('08- ) Huntington Beach Wetlands Conservancy ('10- )
Joseph Pannone	JD 1980 BA 1976	Loyola Law School <i>Ambur Award 1979</i> Loyola Marymount	31	Baldwin Park ('08- ) Bellflower ('08- ) Lompoc ('09- ) Palos Verdes Est. ('08-'10) So. Pasadena ('98-'03) Culver City ('86-'89)	Baldwin Park ('03-'07) Bellflower ('03-'07) Culver City ('80-'89)	Special Counsel: Culver City ('89- ) El Centro RDA ('94- ) Mammoth Lakes ('07- ) Culver City RDA ('80-'06) Lompoc RDA ('95- )

Attorney	Education		Yrs of Practice	City Attorney	Assistant/Deputy City Attorney	Representative Public Clients
Sunny Soltani	JD	2000 Loyola Law School <i>St Thomas Moore Law Honor Society</i> <i>Order of the Coif</i> <i>Cum laude</i>	11	Signal Hill ('10- )	Carson Rent Control Review Board ('06- )	Chief Litigator, Signal Hill Eminent Domain ('01- ) Indian Springs Mobile Home Park ('06- ) Pacific Mobile Home Park ('09- ) City of China Spec Litigation Counsel, Palm Desert ('07- )
	BA	1997 UCLA <i>With Honors and Great Distinction</i>				
Lindsay Tabalan	JD	2008 University of Southern California	2		Cypress ('10- )	Deputy City Prosecutor: Lawndale ('10- )
	BA	2005 University of CA, San Diego <i>Magna cum laude</i> <i>Phi Beta Kappa</i>				
Colin Tanner	JD	1990 Hastings College of Law	21			Labor & Employment Counsel: Banning, Carson, Cypress, Covina, Hesperia, Inwindale, Lawndale, Lompoc, Lynwood, Perris, Signal Hill Special Counsel: Adelanto, Newport Beach, Signal Hill Civil Service Commission
	BA	1987 University of CA, San Diego				
Anthony Taylor	JD	2000 University of Southern California <i>Moot Court Honors</i>	11		Suisun City ('09- )	Eastern Sierra Community Services District
	BA	1997 University of Southern California <i>Summa cum laude</i> <i>Class Valedictorian, School of Public Administration</i>				
William Wynder	JD	1978 Pepperdine Law School <i>Cum laude</i> <i>Editor in Chief, Law Review</i> <i>Best Advocate Moot Court</i>	33	Carson ('03- ) Cypress ('97- ) Lawndale ('94-07)	Inwindale (1990-99) Signal Hill (1990-99)	Rossmore CSD ('92-03)
	BA	1975 University of Utah <i>Magna cum laude</i>				

# OF COUNSEL ATTORNEYS

Attorney	Education	Yrs of Practice	City Attorney	Assistant/Deputy City Attorney	Representative Public Clients
Susan Trager, Of Counsel	JD 1973 BS 1970 Golden Gate University School of Law University of Colorado, Boulder	37			Water Law Counsel: San Luis Rey Municipal Water District Bighorn Desert View Water Agency Phelon Pinon Hills Cmty Services District Lake Arrowhead Cmty Services District Rancho Carrillo Mutual Water Co Deputy Attny Gen'l, State of Nevada ('75-77) Carson City & Las Vegas
Glen Tucker, Of Counsel	JD 1972 BA 1966 Southwestern University Loyola Marymount	38			Specialties: Law Enforcement, Risk Management

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

**Meeting Date:** February 22, 2011

**To:** Board of Directors

**Budgeted:** N/A

**Budgeted Amount:** N/A

**Cost:** N/A

**Funding Source:** Budget line: N/A

**From:** Marina D. West

**General Counsel Approval:** N/A

**CEQA Compliance:** N/A

**Subject:** Department of Public Health Notice: Gross Alpha and Uranium Concentration s at Well No. 2 and Well No. 3

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## **SUMMARY**

Staff has received a notification from the California Department of Public Health regarding on-going quarterly monitoring at Well Nos. 2 and 3 (Well No. 4 is out of service). While there is a continuing concern regarding the water quality results the emphasis has shifted away from the Gross Alpha levels to the Uranium level. In summary, the values do not exceed the Maximum Contaminant Level (MCL) for Gross Alpha particle activity or the MCL for Uranium.

Staff will review the latest memo from the Department of Public Health dated February 7, 2011 and discuss with the Board plans to put the wells back into service given this new interpretation of the Radionuclide Rule.

## **RECOMMENDATION**

Information and discussion only

## **BACKGROUND/ANALYSIS**

In December 2010 the Agency received a letter from the Department of Public Health indicating that the Maximum Contaminant Level (MCL) for Gross Alpha had been exceeded. However, no Tier 2 Public Notification was required as the Agency had not actually served the water to the public. Samples had been obtained quarterly as requested but the pumped water was sent to waste and never entered the distribution system.

In February 2011, staff was informed by the Department of Public Health that they were modifying that viewpoint based on further analysis of *California Title 22 Code of Regulations, Chapter 15: Domestic Water Quality and Monitoring Regulations, Article 5: Radioactivity, Section 44442: MCL's and Monitoring – Gross Alpha Particle Activity, Radium-226, Radium-228 and Uranium*. As a result they have recalculated compliance with Gross Alpha and Uranium maximum contaminants levels (MCL) with results from the forth quarter of last year,

and have determined the Agency's running annual averages (RAA) are in compliance with the radionuclide MCL's.

Determining Radionuclide compliance is not a single step process as is the case with compliance for water quality parameters such as Nitrate or Arsenic. The MCL for Gross Alpha is based only on Gross Alpha particle activity but the reported measurement of Gross Alpha also includes the component parts Uranium and Radium. In order to evaluate Gross Alpha particle activity the Uranium must first be subtracted. Depending on that result, Radium might also be subtracted from the Gross Alpha result. The attached flowchart outlines the process of calculating compliance. The results for Well No. 2 and No. 3 indicate that a majority of the Gross Alpha measurement is comprised of Uranium not Gross Alpha particle activity as previously reported by the Department of Public Health.

For example, if Gross Alpha is reported at 20 pCi/L and Uranium at 15 pCi/L then the Gross Alpha particle activity is 5 pCi/L ( $20 - 15$ ) which is well below the MCL of 15 pCi/L. However, in the absence of Uranium measurements presented alongside Gross Alpha measurements the Department of Public Health must assume that no Uranium exists and in the above example Gross Alpha would be reported as 20 pCi/L and therefore exceeding MCL.

In summary, the wells were taken out of service at least a year ago due to Gross Alpha measurements being at or near the MCL. While associative Uranium data were available, it wasn't until the Department of Public Health re-evaluated its interpretation of the Radionuclide Rule in 2011 that this re-interpretation was applied. Upon doing so they have reported that as long as the levels of Gross Alpha (excluding Uranium) and Uranium are both in compliance then the wells may be used without public notification. They report that the Gross Alpha (excluding Uranium) and Uranium are currently in compliance, at 5 pCi/L and 17 pCi/L respectively.

Staff has considering the associative risk of running the wells with this new information and has determined that the levels are stable enough that use of the wells outweighs non-use at this time. Staff wanted to brief the Board on the new findings and discuss any questions or concerns the Board may have before implementation of this operational strategy.

#### **PRIOR RELEVANT BOARD ACTION(S)**

4/15/2010 Planning/Legislative/Engineering/Grant/Security Committee Review of historical Gross Alpha and Uranium water testing results for Well Nos. 2, 3 and 4.

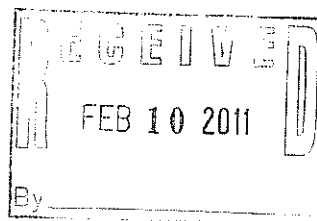


State of California—Health and Human Services Agency  
California Department of Public Health

MARK B HORTON, MD, MSPH  
Director



EDMUND G. BROWN JR.  
Governor



February 7, 2011

Ms. Marina West  
General Manager  
Bighorn - Desert View Water Agency  
622 So. Jemez Trail  
Yucca Valley, CA 92284

Subject: Radionuclide Compliance - Bighorn - Desert View Water Agency (System No. 3610009)

Dear Ms. West:

The Department has recalculated compliance with Gross Alpha and Uranium maximum contaminants levels (MCL) with results from the fourth quarter of last year, and has determined that Bighorn's running annual averages (RAA) are in compliance with the radionuclide MCLs. As stated in the Department letter dated December 6, 2010, Well 2 Gross Alpha concentrations did exceed the Gross Alpha MCL value, however the Agency is not out of compliance.

Per Section 64442, Gross Alpha compliance shall be determined by averaging four consecutive quarters of Gross Alpha value **excluding** Uranium value, rounded to the same number of significant figures as the Gross Alpha MCL. If this value is greater than 15 pCi/L then the Agency shall be out of compliance for Gross Alpha. Uranium compliance is determined by averaging four consecutive quarters of Uranium value rounded to the same number of significant figures as the Uranium MCL. If this value is greater than 20 pCi/L then the Agency shall be out of compliance for Uranium.

Based on this, Well 2 may be used without public notification as current levels of Gross Alpha (excluding Uranium) and Uranium are both in compliance, namely at 5 pCi/L and 17 pCi/L respectively. The Agency must continue to monitor both Gross Alpha and Uranium values on a quarterly basis. Please refer to attachment for additional details.

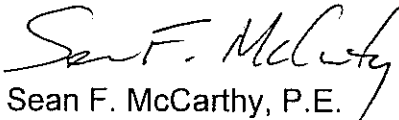
The Department recommends that an engineering study be completed to evaluate treatment options for Well 2 and Well 3. As of fourth quarter results of last year, both



Well 2 and Well 3 are at 17 pCi/L for Uranium, therefore use of Well 2 and Well 3 should be minimized whenever possible. If the subsequent monitoring show that either Well 2 and Well 3 have exceeded the MCLs while in service, Bighorn DVWA may be in violation of the radionuclide MCLs and a Tier 2 public notice may be required.

If you have any questions please contact Faraz Asad at (909) 383-4312.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean F. McCarthy". The signature is fluid and cursive, with the first name "Sean" and last name "McCarthy" clearly distinguishable.

Sean F. McCarthy, P.E.  
Senior Sanitary Engineer  
San Bernardino District

**Radionuclide Compliance**

Name: Faraz Asad  
 System: Bighorn - Desert View Water Agency  
 System No: 3610009  
 Date Processed: 2/7/2011  
 Date Sampled: varies

**Well 2**

Gross Alpha (pCi/L)				Uranium (pCi/L)			
Qtr (2010)	GA, Avg (pCi/L)	GA-U	RAA	Qtr (2010)	Ur, Avg (pCi/L)	RAA	Comments
1st	14	0.0		1st	17		
2nd	16	16.0		2nd	-		Not sampled
3rd	17	2.0		3rd	15		Avg of 2 samples
4th	13	0.0	5	4th	20	17	

**Well 3**

Gross Alpha (pCi/L)				Uranium (pCi/L)			
Qtr (2010)	GA, Avg (pCi/L)	GA-U	RAA	Qtr (2010)	Ur, Avg (pCi/L)	RAA	Comments
1st	15	0.0		1st	19		
2nd	17	17.0		2nd	-		Not sampled
3rd	11	0.0		3rd	14.5		Avg of 2 samples
4th	14	0.0	4	4th	17	17	

**Notes:**

Samples NS were not considered in RAA calculation

NS Not Sampled (NS) / No Sample Data

0 Non-Detect (ND)

**Radionuclide (Section 64442)**

Gross Alpha (Gross Alpha - [Uranium+Radon])

Uranium

**MCL**

15

20

**DLR**

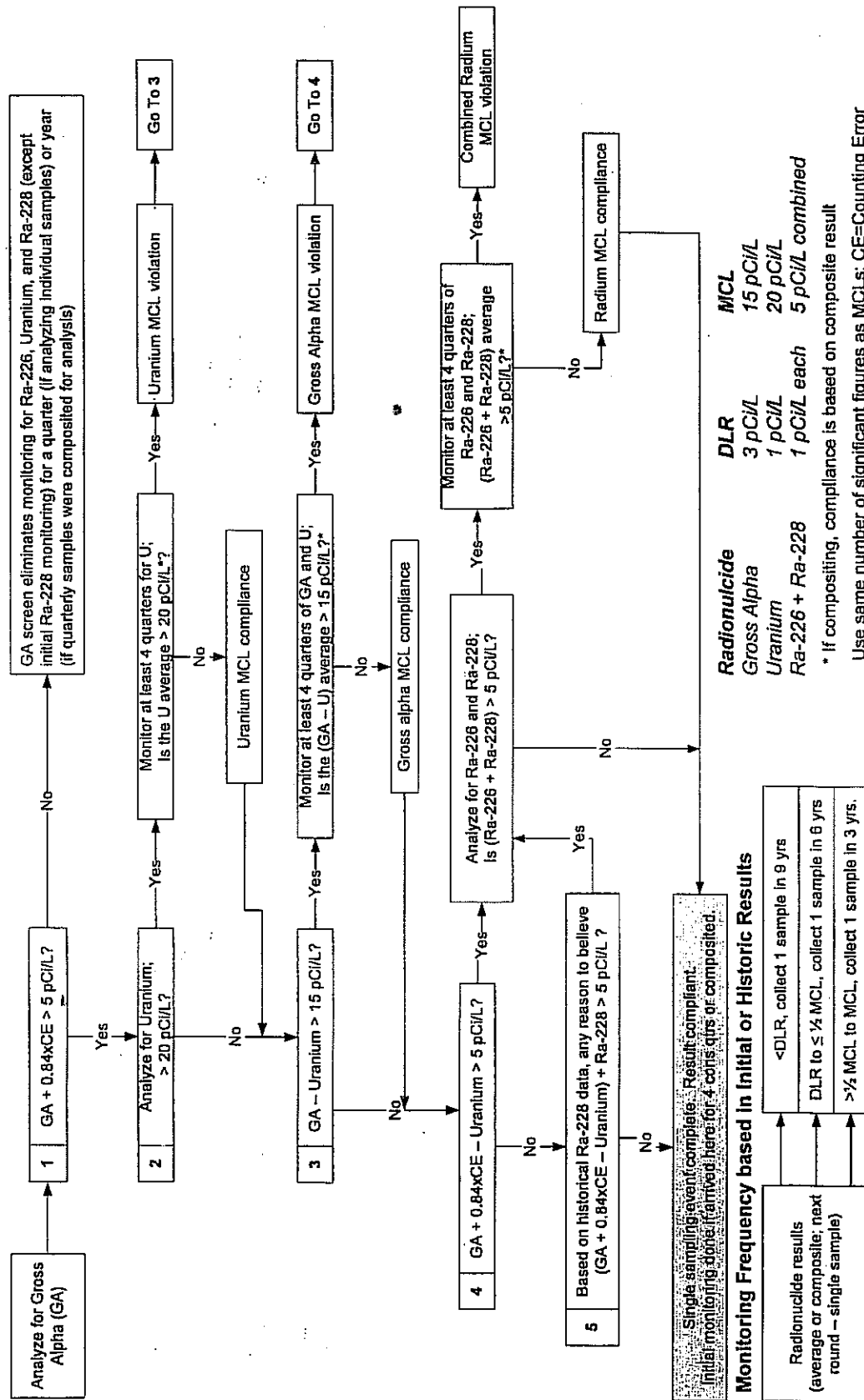
3

1

# California Drinking Water Radionuclide Monitoring under Section 64442 of Title 22

## Initial Monitoring for new sources and MCL compliance determination flow chart for Community Water Systems (CWS)

- Use this chart as a guide for each sampling event under Section 64442 of Title 22.
- For initial monitoring, each system must collect and analyze 4 individual quarterly samples or, if approved by the Department, collect a 4-quarter composite and analyze; if a composite result is  $> \frac{1}{2}$  MCL, at least 1 additional quarterly sample must be collected and analyzed. Four consecutive quarters reaching the final box completes initial monitoring. Samples must be collected in the same month (1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup>) of each quarter. Gross alpha results in this chart exclude radon measurements.
- For initial monitoring, CWS must also collect and analyze 4 quarters of Ra-228. Ra-228 may also have to be monitored to determine compliance with the combined radium MCL.
- If analyzing quarterly samples during initial monitoring, the last 2 quarters may be waived if each of the first 2 quarters are  $< \text{DLR}$  for a radionuclide, including Ra-228.



# The **IMPACT** of **POLITICS**

March 11, 2011  
11:00 am

Victorville Chamber of Commerce presented by

## **PUBLIC POLICY FORUM**

ABENGOA SOLAR INC.  
DESERT VALLEY MEDICAL GROUP  
DESERT VALLEY HOSPITAL

HDPC High Desert Primary Care Medical Group  
CHOICE MEDICAL GROUP

Join the Victorville Chamber of Commerce at the Public Policy Forum: The Impact of Politics. Dan Schnur Chairman of the California Fair Political Practices Commission and Director of the Institute of Politics at USC will join Assemblyman Steve Knight in discussing recent changes in government and the impact of politics in California. Tickets are \$25 per person.



Dan Schnur  
Chairman of California Fair  
Political Practices Commission

**March 11, 2011**

11:00 am Registration  
11:30 am Program & Lunch

**Kinari Banquet Center**

12152 Cottonwood Rd.  
Victorville, CA

RSVP by March 4, 2011  
(760) 245-6506 or [mspears@vvchamber.com](mailto:mspears@vvchamber.com)



Assemblyman  
Steve Knight

BIGHORN-DESERT VIEW WTR AGENCY  
CHECK REGISTER  
JANUARY 31, 2011

CHECK#	DATE	PAYEE & DESCRIPTION	AMOUNT
10807	01/07/11	BUCKNAM & ASSOCIATES, INC. GRANT CONSULTING FEES	1,147.50
10808	01/07/11	TERRY BURKHART REG MEETING 122810	100.00
10809	01/07/11	CRISTI BUSH BAD DEBT PROCEDURES, YE CLOSE, TAX RETURNS	856.78
10810	01/07/11	CRISTI BUSH REIM-TAX FORMS	110.33
10811	01/07/11	CLINICAL LABORATORY OF BULK SYS/BAC-T, PLATE COUNT BULK SYS/BAC-T, PLATE COUNT URANIUM,GROSS ALPHA,MTBE/EPA, PERCHLORATE	1,050.00
10812	01/07/11	JUDY CORL-LORONO REG MEETING 122810	100.00
10813	01/07/11	CYBERSPIKE WEBSITE HOSTING,PRE-PAID 1 YR, 1/21/11-1/21/12	765.00
10814	01/07/11	WEBSITE MAINT, AUG-DEC 2010 FERRELLGAS	912.58
10815	01/07/11	PROPANE, SHOP & OFFICE INLAND WATER WORKS INVENTORY	398.35
10816	01/07/11	FIELD SUPPLIES DAVID LARSON REG MEETING 122810	100.00
10817	01/07/11	MICHAEL MCBRIDE REG MEETING 122810	100.00
10818	01/07/11	OFFICE DEPOT OFFICE SUPPLIES	77.11
10819	01/07/11	REWAL, DAVID WORKBOOTS, REWAL	143.93
10820	01/07/11	SMITH TRAGER LLP LEGAL FEES, GRESHAM/NOV	1,324.80
10821	01/07/11	UNDERGROUND SERVICE ALERT DIG ALERTS, 10 TICKETS	15.00
10822	01/07/11	VERIZON CALIFORNIA OFFICE PHONES & AUTO CONTROLS 121910-11811	609.11
10823	01/14/11	ACWA-HBA SERVICES CORP. ACWA/HEALTH BENEFITS	535.73
10824	01/14/11	AT&T MOBILITY COMMUNICATIONS EXPENSE	132.50
10825	01/14/11	BURRTEC WASTE & RECYLING SVCS TRASH FEES, JAN	72.71
10826	01/14/11	CRISTI BUSH CHANGES TO BAD DEBT PROCEDURES AR & GL BALANCES	1,026.78
10827	01/14/11	FLAMINGO HEIGHTS COMMUNITY	

BIGHORN-DESERT VIEW WTR AGENCY  
CHECK REGISTER  
JANUARY 31, 2011

CHECK#	DATE	PAYEE & DESCRIPTION	AMOUNT
10828	01/14/11	NEWSLETTER AD 2011	75.00
10829	01/14/11	GOODSPEED DISTRIBUTING INC UNLEADED FUEL	831.99
10830	01/14/11	THE HOME DEPOT #6971 FIELD SUPPLIES	26.45
10831	01/14/11	INLAND WATER WORKS INVENTORY	94.61
10832	01/14/11	KRIEGER & STEWART, INC DISTRICT ENGINEER	1,659.40
10833	01/14/11	MAID TO ORDER CLEANING SVC/OFFICE 12/25/10	68.00
10834	01/14/11	PITNEY BOWES PURCHASE POWER POSTAGE FOR METER	1,000.00
10835	01/14/11	PROTECTION ONE SHOP MO SVC 12611-22511	39.69
10836	01/14/11	SDRMA SDRMA MEDICAL BENEFITS, FEB	2,847.94
10837	01/20/11	VAGABOND WELDING SUPPLY WELDING SUPPLIES	14.57
10838	01/20/11	ACE ALTERNATORS-GENERATORS- 2 BATTERIES	189.12
10839	01/20/11	BARR LUMBER CO INC SUPPLIES	17.00
10840	01/20/11	CLINICAL LABORATORY OF BULK SYS/BAC-T, PLATE COUNT, GEN PHY, EPA, SOC, DIOXIN, CHLORINATED ACID/PESTICIDES BULK SYS/BAC-T, PLATE COUNT AMES, TITLE 22 COMPLIANCE, GEN PHY/MIN, GROSS ALPHA, MTBE TITLE 22 COMPLIANCE, EPA, CHLORINATED PESTICIDES	7,780.00
10841	01/20/11	INLAND WATER WORKS INVENTORY	26.10
10842	01/20/11	LANDERS ASSOCIATION, INC. NEWSLETTER AD 2011	30.00
10843	01/20/11	MAID TO ORDER C/SVC 1/15/11, JEMEZ & CHEROKEE	153.00
10844	01/20/11	* VOID *	
10845	01/20/11	SMITH TRAGER LLP LEGAL FEES, GRESHAM/DEC	233.78
10846	01/20/11	WATERLINE TECHNOLOGIES HYPOCHLORITE SOLUTIONS	639.28
10847	01/20/11	BRANDY PORTER BALANCE RFND ACCT# 0501611	4.88
10848	01/20/11	DEBORAH ANDERSEN BALANCE RFND ACCT# 0800891	39.99
10849	01/20/11	EVAN BADT BALANCE RFND ACCT# 0413604	61.08
10850	01/20/11	TRI VALLEY REALTY BALANCE RFND ACCT# 0905204	42.13
10851	01/20/11	US CITIES REAL ESTATE BALANCE RFND ACCT# 0402352	48.67
		OFFICE DEPOT	

BIGHORN-DESERT VIEW WTR AGENCY  
CHECK REGISTER  
JANUARY 31, 2011

CHECK#	DATE	PAYEE & DESCRIPTION	AMOUNT
		OFFICE SUPPLIES	
		OFFICE SUPPLIES	85.08
10861	01/20/11	* VOID *	
10862	01/28/11	AVALON URGENT CARE INC.	
		EMPLOYMENT PHYSICAL	65.00
10863	01/28/11	BARR LUMBER CO INC	
		FIELD SUPPLIES	
		FIELD SUPPLIES	132.50
10864	01/28/11	CA RURAL WATER ASSN	
		2011 MEMBERSHIP DUES	
		MAR 2011-MAR 2012	537.00
10865	01/28/11	CALIFORNIA PUBLIC EMPLOYEE'S	
		PERS CONT PP 10111-11411	2,236.10
10866	01/28/11	CATHERINE JORDAN	
		BAL RFND,OVER PYMT WATER BILL	255.57
10867	01/28/11	COMPUTER MAINTENANCE&CONCEPTS	
		COMPUTER REPAIR	261.35
10868	01/28/11	FIRST BANKCARD	
		ADMIN EXP/NAT'L WATER RESEARCH	275.00
10869	01/28/11	HI-DESERT STAR	
		PET CALENDAR	320.00
10870	01/28/11	INLAND WATER WORKS	
		SUPPLIES	54.38
10871	01/28/11	SOUND BILLING	
		10 F/RANGER OIL & FILTER	46.86
10872	01/28/11	QUILL	
		OFFICE SUPPLIES	65.25
10873	01/28/11	SMITH TRAGER LLP	
		LEGAL FEES, TRAGER/OCT	2,125.00
10874	01/28/11	SOUTHERN CALIFORNIA EDISON	
		POWER EXP, DEC	5,278.98
10875	01/28/11	TODD ENGINEERS	
		PROF SVC, RECHE/NOV 2010	
		PROF SVC, RECHE/CREDIT	24,261.38
		TOTAL	61,500.34

*[Signature]*  
*[Signature]*  
*[Signature]*

BALANCE SHEET  
PERIOD ENDING 01/31/11

## GENERAL FUND

## ASSETS

-----

TOTAL CASH & CASH EQUIVALENTS	26,781.26	
TOTAL INVESTMENTS	729,761.68	
TOTAL ACCTS RECEIVABLE, WATER	132,641.39	
TOTAL ACCTS RECEIVABLE, OTHER	0.00	
TOTAL INVENTORY	75,627.20	
TOTAL PREPAID EXPENSES	21,154.43	
TOTAL FIXED ASSETS	3,744,262.16	
TOTAL WORK IN PROGRESS (OTHERS)	1,111.52	
TOTAL WORK IN PROGRESS (AGENCY)	575,556.04	
TOTAL DEBT ISSUANCE COST	2,011.24	
 TOTAL ASSETS		5,308,906.92

=====

## LIABILITIES

-----

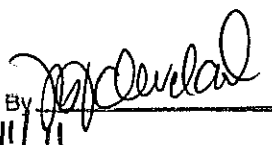
TOTAL ACCOUNTS PAYABLE	11,687.76	
TOTAL ACCRUED PAYROLL	13,979.20	
TOTAL CUSTOMER DEPOSITS	51,314.00	
TOTAL WORK IN PROGRESS DEPOSIT	11,000.00	
TOTAL LIAB PYBL FRM REST ASSET	6,487.21	
TOTAL LONG TERM DEBT	1,083,977.05	
 TOTAL LIABILITIES		1,178,445.22

## EQUITY

-----

 TOTAL EQUITY		4,130,461.70
 TOTAL LIABILITIES & EQUITY		5,308,906.92

=====

Prepared By   
Date 2/11/11  
Reviewed By mmwest



## GENERAL FUND

## ASSETS

-----

## CASH &amp; CASH EQUIVALENTS

01 13120	CASH UNION BANK OF CA	25,231.26
01 13130	CASH CASH DRAWERS BASE FUND	750.00
01 13400	CASH PETTY CASH FUND	800.00
		-----
TOTAL CASH & CASH EQUIVALENTS		26,781.26

## INVESTMENTS

01 13303	CASH LAIF-UNRESTRICTED	729,761.68
		-----
TOTAL INVESTMENTS		729,761.68

## ACCOUNTS RECEIVABLE, WATER

01 13710	A/R WATER	132,641.39
		-----
TOTAL ACCTS RECEIVABLE, WATER		132,641.39

## ACCOUNTS RECEIVABLE, OTHER

		-----
TOTAL ACCTS RECEIVABLE, OTHER		0.00

## INVENTORIES

01 14301	INVENTORY-WATER SYSTEM PARTS	71,900.20
01 14302	INVENTORY-DIESEL FUEL	1,959.52
01 14303	INVENTORY-UNLEADED FUEL	1,767.48
		-----
TOTAL INVENTORY		75,627.20

## PREPAID EXPENSES

01 14401	PREPAYMENTS WORKERS COMP INSUR	1,588.60
01 14402	PREPAYMENTS PL & PD LIAB INS	13,215.92
01 14403	POSTAGE	6,349.91
		-----
TOTAL PREPAID EXPENSES		21,154.43

## FIXED ASSETS

01 11130	FA ORGANIZATION	336,271.36
01 11140	FA LAND & BUILDINGS	298,457.41
01 11150	FA YARDS	57,934.48
01 11160	FA FUELS TANKS	16,604.30
01 11170	FA WATER SYSTEM	7,693,768.41
01 11180	FA SHOP EQUIPMENT	99,211.92
01 11181	FA MOBILE EQUIPMENT	444,996.56
01 11190	FA OFFICE EQUIPMENT	139,079.33
01 11400	ACCUMULATED DEPRECIATION	( 5,342,061.61)
		-----
TOTAL FIXED ASSETS		3,744,262.16

## WORK IN PROGRESS (FOR OTHERS)

01 12004	WIP BLUCKER ANNEXATION	111.52
----------	------------------------	--------

BALANCE SHEET  
PERIOD ENDING 01/31/11

## GENERAL FUND

01 12038	WIP HAHM INTERNATIONAL	1,000.00
		-----
TOTAL WORK IN PROGRESS (OTHERS)		1,111.52

## WORK IN PROGRESS (AGENCY)

01 12005	WIP EPA GRANT	634,204.04
01 12017	WIP METER REPLACEMENT PROGRAM (	58,648.00)
		-----
TOTAL WORK IN PROGRESS (AGENCY)		575,556.04

## DEBT ISSUANCE COST

01 15400	BOND ISSUE COSTS	2,011.24
		-----
TOTAL DEBT ISSUANCE COST		2,011.24

TOTAL ASSETS	5,308,906.92
	=====

## LIABILITIES

-----

## ACCOUNTS PAYABLE

01 22400	CAPITAL LEASE	( 0.48)
01 22520	ACCRUED INTEREST PAYABLE	3,750.00
01 22700	ACCOUNTS PAYABLE	7,938.24
		-----
TOTAL ACCOUNTS PAYABLE		11,687.76

## ACCRUED PAYROLL

01 22900	ACCRUED PAYROLL LIABILITIES	13,979.20
		-----
TOTAL ACCRUED PAYROLL		13,979.20

## CUSTOMER DEPOSITS

01 22550	CUSTOMER DEPOSITS PENDING	1,920.00
01 22600	CUSTOMER DEPOSITS	49,394.00
		-----
TOTAL CUSTOMER DEPOSITS		51,314.00

## WORK IN PROGRESS DEPOSIT

01 23004	WIP-DEP-BLUECKER ANNEXATION	7,500.00
01 23038	WIP DEP HAHM INTERNATIONAL	3,500.00
		-----
TOTAL WORK IN PROGRESS DEPOSIT		11,000.00

## LIAB PYBL FRM RESTRICTD ASSETS

01 22950	ACCRUED INT PAYABLE DV ID BNDS	4,487.21
01 22951	ACCRUED BONDS PAYABLE DV ID	2,000.00
		-----
TOTAL LIAB PYBL FRM REST ASSET		6,487.21

## LONG TERM DEBT

01 21101	REVENUE BONDS PAYABLE - DV	311,977.05
----------	----------------------------	------------

BALANCE SHEET  
PERIOD ENDING 01/31/11

GENERAL FUND

01 22300	REVENUE BONDS PAYABLE - BH	772,000.00
TOTAL LONG TERM DEBT		1,083,977.05

TOTAL LIABILITIES 1,178,445.22

EQUITY  
-----

01 30109	CONTRIBUTED CAPITAL/HUD	291,035.88
01 30111	FMHA GRANTS	758,297.76
01 31000	FUND BALANCE	2,404,908.58
01 31001	FUND BALANCE FEMA & OES	427,895.00
01 31111	CURR YEAR NET REVENUE/EXPENSE	248,324.48

TOTAL EQUITY 4,130,461.70

TOTAL LIABILITIES & EQUITY 5,308,906.92  
=====

STATEMENT OF REVENUE AND EXPENSE  
PERIOD ENDING 01/31/11

## GENERAL FUND

	BUDGET	REV OR EXP THIS MONTH	REV OR EXP YEAR TO DATE	AVAILABLE	YTD % OF BUDGET
REVENUE					
TOTAL OPERATING REVENUE	1,084,296.00	77,283.12	689,467.40	394,828.60	63.59%
TOTAL NON-OPERATING REVENUE	238,600.00	13,520.59	215,243.14	23,356.86	90.21%
TOTAL REVENUE	1,322,896.00	90,803.71	904,710.54	418,185.46	68.39%
EXPENSE					
TOTAL OPERATIONS EXPENSE	452,280.00	29,072.28	151,390.72	300,889.28	33.47%
TOTAL BULK SYSTEM EXPENSE	0.00	2,304.86	7,644.51	0.00	0.00%
TOTAL ADMINISTRATIVE EXPENSE	607,175.00	28,759.76	320,077.45	287,097.55	52.72%
TOTAL OPERATING EXPENSE	1,059,455.00	60,136.90	479,112.68	580,342.32	45.22%
TOTAL NON-OPERATING EXPENSE	137,200.00	23,185.03	177,273.38	-40,073.38	129.21%
TOTAL EXPENSE	1,196,655.00	83,321.93	656,386.06	540,268.94	54.85%
NET REV/EXP GENERAL FUND	126,241.00	7,481.78	248,324.48	-122,083.48	196.71%
	=====	=====	=====	=====	=====

Prepared By

Date

Reviewed By

STATEMENT OF REVENUE AND EXPENSE  
PERIOD ENDING 01/31/11

## GENERAL FUND

	BUDGET	REV OR EXP THIS MONTH	REV OR EXP YEAR TO DATE	AVAILABLE	YTD % OF BUDGET
<b>REVENUE</b>					
<b>OPERATING REVENUE</b>					
01 41000 SERVICE LINE INSTALLATION FEES	2,510.00	0.00	1,320.00	1,190.00	52.59%
01 41001 BASIC FACILITIES CHARGE	8,196.00	0.00	4,098.00	4,098.00	50.00%
01 41100 INCOME METERED WATER	444,931.00	21,046.74	251,236.89	193,694.11	56.47%
01 41300 BASIC SERVICE CHARGE	559,350.00	50,116.91	347,501.33	211,848.67	62.13%
01 41400 INCOME METERED BULK WATER	0.00	3,644.31	35,475.69	0.00	0.00%
01 41600 INCOME REVENUE BONDS DV FMHA	47,709.00	37.37	25,114.94	22,594.06	52.64%
01 41700 INCOME OTHER (OPERATING)	21,600.00	2,437.79	24,720.55	-3,120.55	114.45%
<b>TOTAL OPERATING REVENUE</b>	<b>1,084,296.00</b>	<b>77,283.12</b>	<b>689,467.40</b>	<b>394,828.60</b>	<b>63.59%</b>
<b>NON-OPERATING REVENUE</b>					
01 49100 INCOME GEN TAX ID A 1% BH GA02	52,100.00	3,217.44	21,150.11	30,949.89	40.60%
01 49101 INCOME BOND DEBT BH FMHA DA01	125,900.00	6,377.94	55,054.94	70,845.06	43.73%
01 49102 INCOME GENERAL TAX 1% DV GA01	52,100.00	3,188.98	21,585.10	30,514.90	41.43%
01 49200 INTEREST INCOME	2,000.00	736.23	2,626.18	-626.18	131.31%
01 49201 INTEREST INCOME BOND FUNDS	6,000.00	0.00	0.00	6,000.00	0.00%
01 49600 INCOME OTHER (NON OPERATING)	500.00	0.00	0.00	500.00	0.00%
01 49601 INCOME-CONT CAPTL WIP(NONOPER)	0.00	0.00	7,097.53	0.00	0.00%
01 49999 FEDERAL/STATE GRANTS FEMA/OES	0.00	0.00	107,729.28	0.00	0.00%
<b>TOTAL NON-OPERATING REVENUE</b>	<b>238,600.00</b>	<b>13,520.59</b>	<b>215,243.14</b>	<b>23,356.86</b>	<b>90.21%</b>
<b>TOTAL REVENUE</b>	<b>1,322,896.00</b>	<b>90,803.71</b>	<b>904,710.54</b>	<b>418,185.46</b>	<b>68.39%</b>
<b>EXPENSE</b>					
<b>OPERATIONS EXPENSE</b>					
01 54102 OPERATIONS COMPENSATION	200,000.00	11,184.22	63,819.07	136,180.93	31.91%
01 54103 UNIFORMS	2,650.00	143.93	1,325.82	1,324.18	50.03%
01 54105 AUTO CONTROLS	4,500.00	264.91	1,385.99	3,114.01	30.80%
01 54106 VEHICLE/TRACTOR/EQUIP EXPENSE	9,000.00	235.98	4,381.92	4,618.08	48.69%
01 54107 VEHICLE EXPENSE - FUEL	20,000.00	1,265.94	9,939.68	10,060.32	49.70%
01 54109 FIELD MATERIALS & SUPPLIES	25,000.00	1,711.80	7,728.62	17,271.38	30.91%
01 54111 WATER TESTING	9,000.00	6,198.00	8,610.00	390.00	95.67%
01 54112 CONTRACTUAL SERV- ENGINEERING	50,000.00	1,659.40	10,099.05	39,900.95	20.20%
01 54114 WATER SYSTEM REPAIRS	30,000.00	0.00	32.62	29,967.38	0.11%
01 54115 BUILDING MAINTENANCE/REPAIR	8,680.00	333.40	4,456.96	4,223.04	51.35%
01 54117 AMES BASIN MONITORING	9,500.00	845.00	845.00	8,655.00	8.89%
01 54119 COMMUNICATIONS EXPENSE	2,150.00	132.50	908.79	1,241.21	42.27%
01 54121 DISINFECTION EXPENSE	4,000.00	639.28	2,894.01	1,105.99	72.35%
01 54125 POWER WELLS & PUMPS	67,000.00	4,457.92	29,943.28	37,056.72	44.69%
01 54130 OTHER OPERATIONS EXPENSES	10,800.00	0.00	5,019.91	5,780.09	46.48%

STATEMENT OF REVENUE AND EXPENSE  
PERIOD ENDING 01/31/11

## GENERAL FUND

	BUDGET	REV OR EXP THIS MONTH	REV OR EXP YEAR TO DATE	AVAILABLE	YTD % OF BUDGET
TOTAL OPERATIONS EXPENSE	452,280.00	29,072.28	151,390.72	300,889.28	33.47%
BULK SYSTEM EXPENSE					
01 55001 PUMPING PLANT EXPENSE	0.00	2,304.86	6,292.95	0.00	0.00%
01 55002 BULK OPERATIONS & MAINTENANCE	0.00	0.00	1,351.56	0.00	0.00%
TOTAL BULK SYSTEM EXPENSE	0.00	2,304.86	7,644.51	0.00	0.00%
ADMINISTRATIVE EXPENSE					
01 56001 DIRECTOR FEES	15,000.00	400.00	7,000.00	8,000.00	46.67%
01 56002 DIRECTOR MEETING EXPENSES	5,000.00	0.00	7,024.21	-2,024.21	140.48%
01 56003 ADMINISTRATIVE COMPENSATION	225,000.00	15,548.65	101,714.50	123,285.50	45.21%
01 56005 ADMINISTRATIVE MEETING EXPENSE	1,000.00	275.00	460.06	539.94	46.01%
01 56006 CONTRACTUAL SERV-AUDITOR	28,000.00	0.00	24,462.00	3,538.00	87.36%
01 56007 CONTRACTUAL SERV-LEGAL	80,000.00	3,683.58	7,414.46	72,585.54	9.27%
01 56008 PERS CONTRIBUTION	34,675.00	1,801.32	14,848.30	19,826.70	42.82%
01 56009 PAYROLL TAXES	10,000.00	466.32	4,062.22	5,937.78	40.62%
01 56011 TELEPHONE/FAX/INTERNET/WEB	8,500.00	1,160.99	3,769.95	4,730.05	44.35%
01 56012 MAILING EXPENSES	8,800.00	400.60	3,517.44	5,282.56	39.97%
01 56014 CONTRACTUAL SERV-OTHER	37,400.00	415.17	19,859.10	17,540.90	53.10%
01 56016 PROPERTY/LIABILITY EXPENSE	30,600.00	500.19	15,759.33	14,840.67	51.50%
01 56017 WORKERS COMP INSURANCE	15,000.00	-314.66	7,418.42	7,581.58	49.46%
01 56018 DUES & SUBSCRIPTIONS	8,000.00	552.00	8,482.76	-482.76	106.03%
01 56020 POWER OFFICES & YARDS	5,200.00	311.40	2,926.99	2,273.01	56.29%
01 56022 BAD DEBT EXPENSE	6,000.00	-640.37	32,667.99	-26,667.99	544.47%
01 56025 PROPANE	1,500.00	912.58	912.58	587.42	60.84%
01 56030 OFFICE SUPPLIES	4,000.00	337.77	2,782.95	1,217.05	69.57%
01 56100 EMPLOYEE BENEFITS INSURANCE	77,500.00	2,949.22	37,214.51	40,285.49	48.02%
01 56110 EMPLOYEE EDUCATION	6,000.00	0.00	3,182.15	2,817.85	53.04%
01 56134 FLAMINGO HEIGHTS ASSN EXP	0.00	0.00	14,597.53	0.00	0.00%
TOTAL ADMINISTRATIVE EXPENSE	607,175.00	28,759.76	320,077.45	287,097.55	52.72%
TOTAL OPERATING EXPENSE	1,059,455.00	60,136.90	479,112.68	580,342.32	45.22%
NON-OPERATING EXPENSE					
01 56200 OFFICE EQUIPMENT EXPENSE	3,450.00	261.35	5,277.52	-1,827.52	152.97%
01 56300 CUSTOMER RELATIONS	3,000.00	320.00	840.79	2,159.21	28.03%
01 56400 OTHER ADMINISTRATIVE EXPENSES	3,000.00	2,601.85	4,019.57	-1,019.57	133.99%
01 57000 INTEREST EXPENSE - BH BONDS	39,000.00	0.00	19,299.99	19,700.01	49.49%
01 57100 DEPRECIATION EXPENSE	0.00	20,001.83	140,036.09	0.00	0.00%
01 57350 MWA PIPELINE DEBT	73,000.00	0.00	0.00	73,000.00	0.00%
01 59100 INTEREST EXPENSE - DV BONDS	15,750.00	0.00	7,799.42	7,950.58	49.52%
TOTAL NON-OPERATING EXPENSE	137,200.00	23,185.03	177,273.38	-40,073.38	129.21%

STATEMENT OF REVENUE AND EXPENSE  
PERIOD ENDING 01/31/11

## GENERAL FUND

	BUDGET	REV OR EXP THIS MONTH	REV OR EXP YEAR TO DATE	AVAILABLE	YTD % OF BUDGET
TOTAL EXPENSE	1,196,655.00	83,321.93	656,386.06	540,268.94	54.85%
NET REV/EXP GENERAL FUND	126,241.00	7,481.78	248,324.48	-122,083.48	196.71%
	=====	=====	=====	=====	=====

# GENERAL ACCOUNT (UNION BANK)

Jan-11

## SOURCES OF FUNDS:

SERVICE LINE INSTALLATION FEES	0.00
BASIC FACILITIES CHARGE	0.00
A/R - WATER	87,537.04
MISCELLANEOUS REVENUE	569.98
1% GENERAL TAX	7016.68
BIGHORN AD VALOREM TAX	8075.29
SDRMA LONGEVITY DIST	3152.00
BAD DEBT EXPENSE	1151.51
CUSTOMER DEPOSITS	<u>1,100.00</u>

TOTAL

108,602.50

## USE OF FUNDS:

DEBT SERVICE	0.00
CAPITAL PURCHASES	25,408.88
INVENTORY PURCHASES	1,273.29
PREPAYMENTS - INSURANCE & POSTAGE	1,000.00
PAYMENTS FOR SALARIES & WAGES	27,221.39
ADMINISTRATIVE EXPENSE	17,075.18
OPERATIONS EXPENSES	17,537.84
TRANSFER TO INCREASE LAIF	45,000.00
MISCELLANEOUS & CUSTOMER REFUNDS	<u>196.75</u>

TOTAL

134,713.33

Prepared By [Signature]

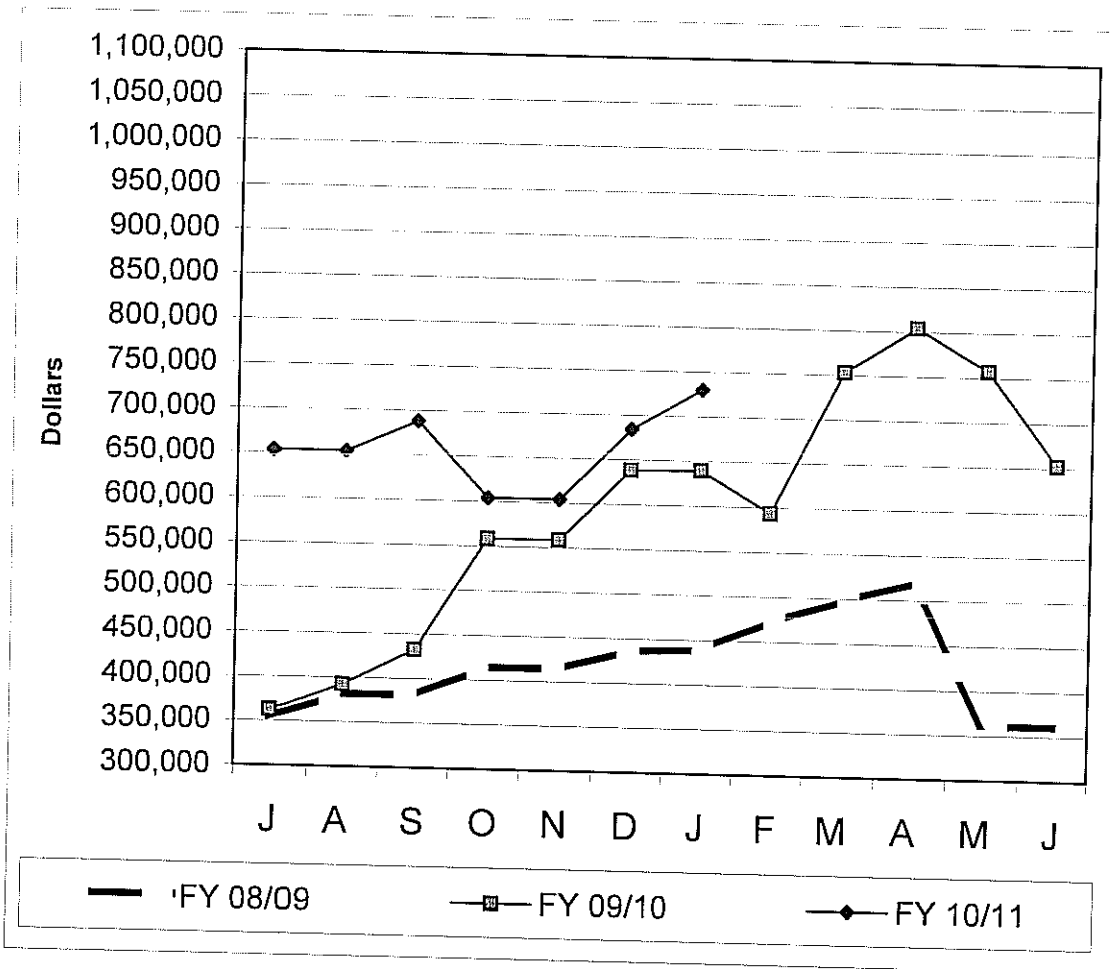
Date 2/11/11

Reviewed By [Signature]



**Local Agency Investment Fund Balance Timeline**  
**Balance as of January 31, 2011**


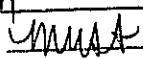
	FY 08/09	FY 09/10	FY 10/11
July	354,364	362,520	653,168
August	381,364	392,520	653,168
September	381,364	432,520	688,168
October	414,076	558,397	604,025
November	414,076	558,397	604,025
December	436,076	638,397	684,025
January	438,737	639,258	729,762
February	471,737	593,258	
March	496,737	753,258	
April	518,901	804,136	
May	360,901	757,136	
June	360,901	652,136	



Prepared By *[Signature]*  
Date 2/11/11  
Reviewed By *[Signature]*

UNION BANK OF CALIFORNIA  
DISBURSEMENTS JANUARY 2011

Datastream Check Register	<u>61,500.34</u>	<u>61,500.34</u>	
EFT for Vendor Services			
Bank Fees	231.89		
Credit Card Fees	699.72		
Internet Access Fee	<u>59.99</u>		
Total EFT for Vendor Services		<u>991.60</u>	
Wages for Paydate 01/06/11			
Employee Tax Withholdings	11,677.96		
Employer Tax Expenses	183.83		
Wages check # 10797-10806	<u>1,702.94</u>		
		<u>13,564.73</u>	
Wages for Paydate 01/20/11			
Employee Tax Withholdings	11,892.75		
Employer Tax Expenses	183.99		
Wages check # 10852-10861	<u>1,579.92</u>		
		<u>13,656.66</u>	
Transfers to LAIF	<u>45,000.00</u>	<u>45,000.00</u>	
Total Disbursements			<u><u>134,713.33</u></u>

Prepared By   
Date 2/11/11  
Reviewed By 

DATE: FEBRUARY 2011  
 TO: LYNI TOMPKINS  
 FROM: DESTINY DIAZ  
 RE: Consumption & Billing Comparison January 2011

### Consumption

#### Residential- North- Bighorn

	Meters	Usage (c.f.)
Book 1	149	268,432
Book 2	183	132,833
Book 3	161	120,113
Book 4	152	324,338
Book 5	129	102,313
Book 6	137	111,017
<b>Total</b>	<b>911</b>	<b>1,059,046</b>

#### Residential- South- Desert View

	Meters	Usage (c.f.)
Book 7	165	156,492
Book 8	176	186,774
Book 9	187	230,516
Book 10	179	186,983
Book 11	191	243,472
<b>Total</b>	<b>898</b>	<b>1,004,237</b>

#### Bulk -Kickapoo, Well 4, Cherokee

	Meters	Usage (c.f.)
Book 30	41	14,559
Book 31	6	1,093
Book 32	4	10,900
<b>Total</b>	<b>51</b>	<b>26,552</b>

#### Construction Meters

	Meters	Usage (c.f.)
Book 40	0	0
<b>Total</b>	<b>0</b>	<b>0</b>

Billed Consumption	2,063,283
Non Billed Usage	8,523
<b>Total Consumption</b>	<b>2,071,806</b>

#### Bulk - Well 10

	Meters	Usage (c.f.)
Book 33	45	16,271
<b>Total</b>	<b>45</b>	<b>16,271</b>

Active Residential Meters	1,809
Active Bulk Meters	96
<b>Total Active Meters</b>	<b>1,905</b>

### Billing Comparison

#### Statistics

	This Year JAN 2011	Last Year JAN 2010	Difference More (Less)
Total Customer Accounts	1007	1011	(4)
Usage in Cubic Feet	1,115,960	828,184	287,776
Percentage Increase/(Decrease)			35%

#### Revenues

Water Revenues	25,179.24	28,337.11	(3,157.87)
Basic Service Charge	50,116.91	50,257.15	(140.24)
Miscellaneous	339.59	245.55	94.04
Delinquent Charges	1,567.36	1,647.12	(79.76)
<b>Total Operating Revenues</b>	<b>77,203.10</b>	<b>80,486.93</b>	<b>(3,283.83)</b>

#### Debt Service Revenues (pass through)

FMHA **	37.37	23.28	14.09
<b>Total Debt Service Revenues</b>	<b>37.37</b>	<b>23.28</b>	

#### Additional Information Regarding Pass Through Revenues

\*\* FMHA annual debt service of \$41,150 divided over 6 months equals \$6,858

Total Charges (Proof)	77,240.47	80,510.21	(3,269.74)
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DATE: January 1, 2011  
 TO: Lyni Tompkins  
 FROM: Destiny Diaz  
 SUBJECT: Service Order Report July 2010 through June 2011

	J	A	S	O	N	D	J	F	M	A	M	J	YTD
Mainline Leaks:	0	0	0	0	0	1	1						2
Service Line Repairs:	8	6	3	5	4	2	1						29
Service Line Replacements:	11	2	0	0	0	1	0						14
Service Line Installations:	0	1	0	0	0	0	0						1
Water System Operations Concerns:**	2	0	2	0	0	0	0						4
48 Hour Tags for NSF Checks:	1	1	2	1	0	1	1						7
Lock Offs for Non-Payment:	12	14	5	13	11	6	4						65
Unlocks After Payment Made:	4	6	1	9	4	2	3						29
Fire Hydrant Maintenance	n/a	n/a	n/a	n/a	18	31	50						99
All Other Miscellaneous:	114	207	183	118	89	87	107						905
Total	153	237	199	147	109	131	167						1143

Bi-annual Flushing of Deadends and Blowoffs was Completed in October

*Fire Hydrant Maintenance and Overhaul activities began in November 2010*

*\*\* Includes Water Quality (taste, odor, color) as well as high or low pressure concerns.*



DATE: 1/6/2011  
 TO: Board of Directors  
 FROM: Kit Boyd  
 RE: JANUARY PRODUCTION

	Cubic Feet Pumped	Total Gallons Pumped	Average GPM	Total Running Time	acre feet
Well 2	0	0	#DIV/0!	0	0.00
Well 3	0	0	#DIV/0!	0	0.00
Well 4	0	0	#DIV/0!	0	0.00
Well 6	328,560	2,457,629	444	92.3	7.54
Well 7	205,080	1,533,998	388	65.9	4.71
Well 8	500,300	3,742,244	979	63.7	11.49
Well 9	59,100	442,068	676	10.9	1.36
Well 10	16,080	120,278	64	31.5	0.37
Total	1,109,120	8,296,218			25.46

Wells 2, 3 and 4 did not run this month

A Boosters	55,430	414,616	72	95.7
C Boosters	115,500	863,940	254	56.8
Total	170,930	1,278,556		