

RESOLUTION NO. 2016- 212

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO, ACTING IN ITS CAPACITY AS THE GOVERNING BOARD OF THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT MAKING FINDINGS OF FACT AS A RESPONSIBLE AGENCY PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN CONNECTION WITH APPROVAL OF THE CONVEYANCE OF PORTIONS OF APN's 0297-101-32 AND 0297-061-34 TO THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT, A CALIFORNIA MUNICIPAL WATER DISTRICT

On Tuesday, November 15, 2016, on motion of Supervisor Hagman, duly seconded by Supervisor Lovingood and carried, the following resolution is adopted by the Board of Supervisors of the San Bernardino County Flood Control District, State of California.

BE IT RESOLVED, ORDERED AND FOUND by the Board of Supervisors of the San Bernardino County Flood Control District that:

Section 1. The Board of Supervisors finds that the following recitals are true and correct:

A. In July 2012, the San Bernardino Valley Municipal Water District (“SBVMWD”), acting as lead agency under the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter “CEQA”), prepared an addendum (Addendum No. 1) to the Final Environmental Impact Report for the Santa Ana River Water Right Application for Supplemental Water Supply (SCH#2002071062) and to the Final Environmental Impact Report for the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (SCH#2004051023) for an Enhanced Recharge Facilities Project (the “Project”).

B. On February 25, 2014, the San Bernardino County Board of Supervisors authorized the conveyance of approximately 3.44 acres of vacant District land for the Project.

C. In January 2016, SBVMWD prepared Addendum No. 2 to the Final Environmental Impact Report for the Santa Ana River Water Right Application for Supplemental Water Supply, in support of a facility redesign to avoid power poles and sensitive riparian habitat of concern to the California Department of Fish and Wildlife (“CDFW”).

D. The Project redesign requires the acquisition by SBVMWD of a 12.35-acres of District owned real property in fee, located at Greenspot Road, south of Santa Ana Canyon Road in the City of Highland, (portions of APNs 0297-101-32 and 0297-061-34) (hereinafter, the “Property”).

E. In June of 2016, CDFW issued a Streambed Alteration Agreement to the SBVMWD that will allow implementation of the redesigned Project.

F. The Environmental Management Division of the San Bernardino County Flood Control District has completed a compliance review of the fee conveyance of the 12.35 acres pursuant to CEQA.

Section 2. The Board of Supervisors of the San Bernardino County Flood Control District, acting as a Responsible Agency pursuant to CEQA and the State CEQA Guidelines (Cal. Admin. Code Title 14, section 15000 *et seq.*), hereby adopts the “CEQA Responsible Agency Findings Regarding the Sale of Surplus Property, dated October 1, 2016, attached hereto as Exhibit A and incorporated herein by this reference, in conjunction with the approval of the conveyance of the Property to SBVMWD for the Project.

Section 3. The Board of Supervisors of the San Bernardino County Flood Control District authorizes and directs that a Notice of Determination shall be filed with the Clerk of the Board of Supervisors within five (5) County business days of the date of the adoption of this resolution.

Section 4. Effective Date. This Resolution shall take effect upon its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the San Bernardino County Flood Control District, State of California, by the following vote:

AYES: SUPERVISORS: Robert A. Lovingood, Janice Rutherford,
James Ramos, Curt Hagman, Josie Gonzales

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

* * * * *

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, **LAURA H. WELCH**, Clerk of the Board of Supervisors of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, November 15, 2016. jll #63

LAURA H. WELCH
Clerk of the Board of Supervisors

By _____
Deputy

EXHIBIT "A"

**BOARD OF SUPERVISORS
OF THE
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT**

CEQA RESPONSIBLE AGENCY FINDINGS

**REGARDING THE
SALE OF SURPLUS PROPERTY**

October 1, 2016

A. INTRODUCTION

The Board of Directors of the County of San Bernardino Flood Control District ("FCD Board") in taking action to declare surplus property and convey in fee title, portions of Assessor Parcel Number 0297-101-32 and 0297-061-34 (See Exhibit A; "Surplus Property"), to the San Bernardino Valley Municipal Water District ("SBVMWD") has considered the environmental review documents certified and adopted by the SBVMWD acting as the Lead Agency under the California Environmental Quality Act ("CEQA"). The SBVMWD project for which the conveyance is requested is identified in the CEQA documents, described below, as the "Enhanced Recharge Facilities Project" ("Recharge Project") which is intended to add additional recharge facilities to an operating water diversion recharge system that are needed to capture and recharge up to 80,000 acre feet per year of local stormwater. (See Exhibit B.) Recharge of stormwater is a primary water management strategy of the Upper Santa Ana River Watershed Integrated Regional Water Management Plan ("IRWMP"). The SBVMWD last approved modifications to this Recharge Project on February 2, 2016. In order to implement the Recharge Project, SBVMWD requires various subsequent discretionary permits and other actions by other state, federal, and local agencies, including this declaration of surplus property by the FCD Board.

**B. DESCRIPTION OF THE DISCRETIONARY ACTION BEFORE THE
FCD BOARD**

The discretionary action before the FCD Board is the declaration of surplus property and the conveyance of fee title of that property to SBVMWD so that it can implement its Recharge Project. The Surplus Property owned by FCD, consisting of portions of Assessor Parcel Number

0297-101-32 and 0297-061-34, contains approximately 12.35 acres and is located between the Seven Oaks Dam and Greenspot Road in the City of Highland. (See Exhibit A) The Surplus Property is primarily vacant and is used as a water course from the Seven Oaks Dam to downstream basins. Certain portions of the Surplus Property are disturbed by Greenspot Road. The conveyed Surplus Property will be used by the SBVMWD for enhanced water recharge facilities along the Santa Ana River floodplain consisting primarily of a diversion structure and a sedimentation basin, as depicted on Exhibit B. The future use of the Surplus Property will be essentially the same as the existing use and will continue to be used to convey water from the Dam to downstream basis after de-silting in the new sedimentation basin. The FCD Board in considering this discretionary action is acting as a Responsible Agency under the California Environmental Quality Act (CEQA) Section 15096.

C. ENVIRONMENTAL REVIEW BY CEQA LEAD AGENCY SBVMWD¹

SBVMWD is a regional water agency formed in 1964 to provide long-range water supply management for the San Bernardino Valley. In this capacity, SBVMWD provides water to its service area through participation with the State Water Project and the management of groundwater storage within its 353 square mile coverage area. SBVMWD monitors ground water supplies and basins and groundwater recharge, and coordinates water deliveries to retailers purveyors in its service area. The area serviced by SBVMWD includes the eastern two-thirds of the San Bernardino Valley including unincorporated portions and the cities of Bloomington, Colton, Grand Terrace, Highland, Loma Linda, Redlands, Rialto, San Bernardino, and Yucaipa.

To increase the amount of stormwater that can be captured and recharged, the SBVMWD plans to construct a new facility along the Santa Ana River. The benefit of the proposed facility would be water conservation, an increase in efficiency in storm water capture, storage, clean-up and treatment, and operational flexibility in water management.

In July 2012, SBVMWD prepared an addendum (“Addendum No. 1”) to the Final Environmental Impact Report for the Santa Ana River Water Right Application for Supplemental Water Supply, (SCH No. 2002071062); and to the Final Environmental Impact Report for the Upper Santa Ana River Wash Land Management and Habitat Addendum No. 1 was prepared to allow construction of additional enhanced recharge facilities to divert, convey and recharge of up to 500 cubic feet per second (cfs) of available runoff from the Santa Ana River.

Subsequently, SBVMWD re-designed a portion of the proposed Recharge Project to avoid power poles and sensitive riparian habitat of concern to the California Department of Fish and Wildlife (“CDFW”). In support of the facility re-design, SBVMWD prepared Addendum No. 2 in January 2016, for the SBVMWD Board’s consideration and approval of the modified facilities design and possible consideration and approval of construction contracts in support of the re-designed Recharge Project. In June of 2016, CDFW issued a Streambed Alteration Agreement to the SBVMWD that will allow implementation of the re-designed Recharge Project.

¹ The following facts have been summarized from the CEQA documentation prepared by SBVMWD and reviewed by FCD.

This re-designed Recharge Project will require approximately 12.35 acres of additional lands owned by FCD for use as a sedimentation basin and placement of a diversion structure, discussed above. Thus, SBVMWD has asked FCD to grant a conveyance of lands necessary for the construction of the re-designed Recharge Project.

FCD conducted a comprehensive review of the re-designed Recharge Project entitlement documentation to assess site specific environmental issues, such as air quality, biology, and cultural resources. This document review included the two certified EIRs, identified above, as well as the Addendum documents and the technical studies contained in the previously identified EIRs, and Addendums No. 1 and 2. In addition, FCD utilized the SBVMWD-prepared San Bernardino Kangaroo Rat Presence/Absence Survey Report (August 2013), and Focused Non-Breeding Period Survey for Coastal California Gnatcatcher Report (March 2015) which were prepared in support of a CDFW issued Streambed Alteration Agreement, in their review. These documents represent the foundation by which the FCD Board is evaluating its CEQA responsibilities in relation to the conveyance of the Surplus Property to SBVMWD.

Both EIRs identified potentially unavoidable significant biological resource impacts from implementing the Proposed Project discussed therein. The Santa Ana River Water Right Applications for Supplemental Water Supply, Final EIR, analyzes the biological resource impacts of the Water Right Application Project on pages 3.3-1 through 3.3-64. Within that document, the 2007 Final EIR concluded that even with mitigation, some biology resource impacts would remain significant and unavoidable. The biological resource evaluation is comprehensive and addresses the project's direct biological resource impacts related to construction, and downstream indirect impacts of diverting up to 1,500 cubic feet per second (cfs) of additional flows from the Santa Ana River for recharge in the expanded recharge facilities identified in the Enhanced Recharge Facilities Project description. Overall, the 2007 Final EIR presented 21 environmental findings for biological resource impacts relating to the proposed Enhanced Recharge Facilities Project and its proposed diversion of up to 500 cfs of stormwater. The specific impact thresholds used in the Final EIR are summarized in Table 3.3-4 of the Final EIR.

The recharge sites were evaluated as part of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan EIR, 2004. The discussion of biological resource impacts is presented on pages 4.4-1 through 4.4-57 of that EIR. The potential impacts of the proposed new recharge areas identified in the Enhanced Recharge Project are specifically discussed on pages 4.4-23 through 4.4-31. The Upper Santa Ana River Wash Land Management and Habitat Conservation Plan EIR evaluates the potential biological resource impacts regarding "The future water conservation facilities would be located within the Water Conservation lands (749 acres) identified as Phases 1 and 2 plus an additional 165 acres within northeastern portion of Section 12 identified as Phase 3."

Findings of unavoidable significant adverse biological resource impacts were reached after applying extensive mitigation measures identified in the Final EIRs; 10 measures in the Final Water Right Application EIR and another 16 measures in the Wash Plan EIR. As identified within the EIRs, Addendums No. 1 and No. 2, and the CDFW issued Streambed Alteration Agreement; SBVMWD is committed to implement the applicable measures discussed therein. In

addition, current biological resource surveys indicate that construction of the proposed Enhanced Recharge Facilities Project will not adversely impact certain sensitive species, including Santa Ana River woollystar, slender-horned spineflower, and coastal California gnatcatcher. The population of San Bernardino kangaroo rat within the Project area was determined to be low.

The relative impacts to the biological resources identified in the two EIRs, and the relative impact of the re-designed Recharge Project on sensitive resources is less than originally forecast. This conclusion is based upon the original impact assessment based on the original design of the project and proposed mitigations measures but now includes restoration of a younger stage of Riversidean alluvial fan sage scrub within the recharge area. The re-designed Recharge Project will result in enhanced habitat for pioneer plant species and SBKR. The only change in the biology resources since 2007 is that the 2002 SBKR critical habitat area is now in place, instead of the 2007 critical habitat designation. This issue was discussed in the EIRs and it does not change the assumptions in the EIRs because they relied upon the 2002 critical habitat designation. Overall, the biology impacts of the re-designed Recharge Project will not be as severe as originally identified in the EIRs, but should still be considered significant and adverse.

The Water Rights Application EIR examined cultural resources, primarily historical resources, within the area of potential effect of the proposed recharge facilities. This CEQA evaluation identified a variety of potential effects on historical resources, of which only the potential modifications to the Cuttle Weir Dam was identified as being a potential unavoidable significant adverse impact. For all other impacts mitigation is available (measures CR-1 through CR-4) to reduce potentially significant historical resource impacts to a less than significant impact level.

The analysis of cultural resources within the Wash Plan EIR area was very broad and it essentially concluded that until specific water conservation facility locations are identified, it would be speculative to examine cultural resource impacts in detail. This was after noting that there are important historical resources located within the project area due to historical water management activities. Since the original cultural resources evaluations, the SBVMWD has completed modifications to Cuttle Weir and recorded its historic values/qualities. Based on the recent cultural resources investigation conducted by the SBVMWD, the re-designed Recharge Project area of potential effect (APE) does not contain any significant cultural resources and with implementation of mitigation, no new significant cultural resources impacts are forecast to result from implementing the re-designed Recharge Project.

D. RESPONSIBLE AGENCY FINDINGS

CEQA Guideline 15096 provides that a Responsible Agency, such as FCD, complies with CEQA by considering the EIRs, Addendums, and CDFW Streambed Alteration Agreement and subsequent biological studies prepared by the Lead Agency, and by reaching its own conclusions on whether and how to approve the discretionary action before the Responsible Agency. The FCD Board must make its independent determination pursuant to CEQA before approving the conveyance of the Surplus Property.

Based on the review of the mitigation measures contained within the EIRs and Addendum No. 1 and 2, adequate mitigation has been provided to avoid direct and/or indirect environmental

effects of the re-designed Recharge Project including the use of the Surplus Property to be conveyed to the SBVMWD.

The FCD Board hereby concludes that relative to the biological and cultural impacts forecast in the two EIRs, and the two Addendums, no new significant adverse change or effect is forecast to occur, and no additional mitigation is required to support the FCD Board's consideration under CEQA of the grant of conveyance in fee of the Surplus Property that will, in part, allow for implementation of the SBVMWD re-designed Recharge Project.

EXHIBIT "A" TO FINDINGS

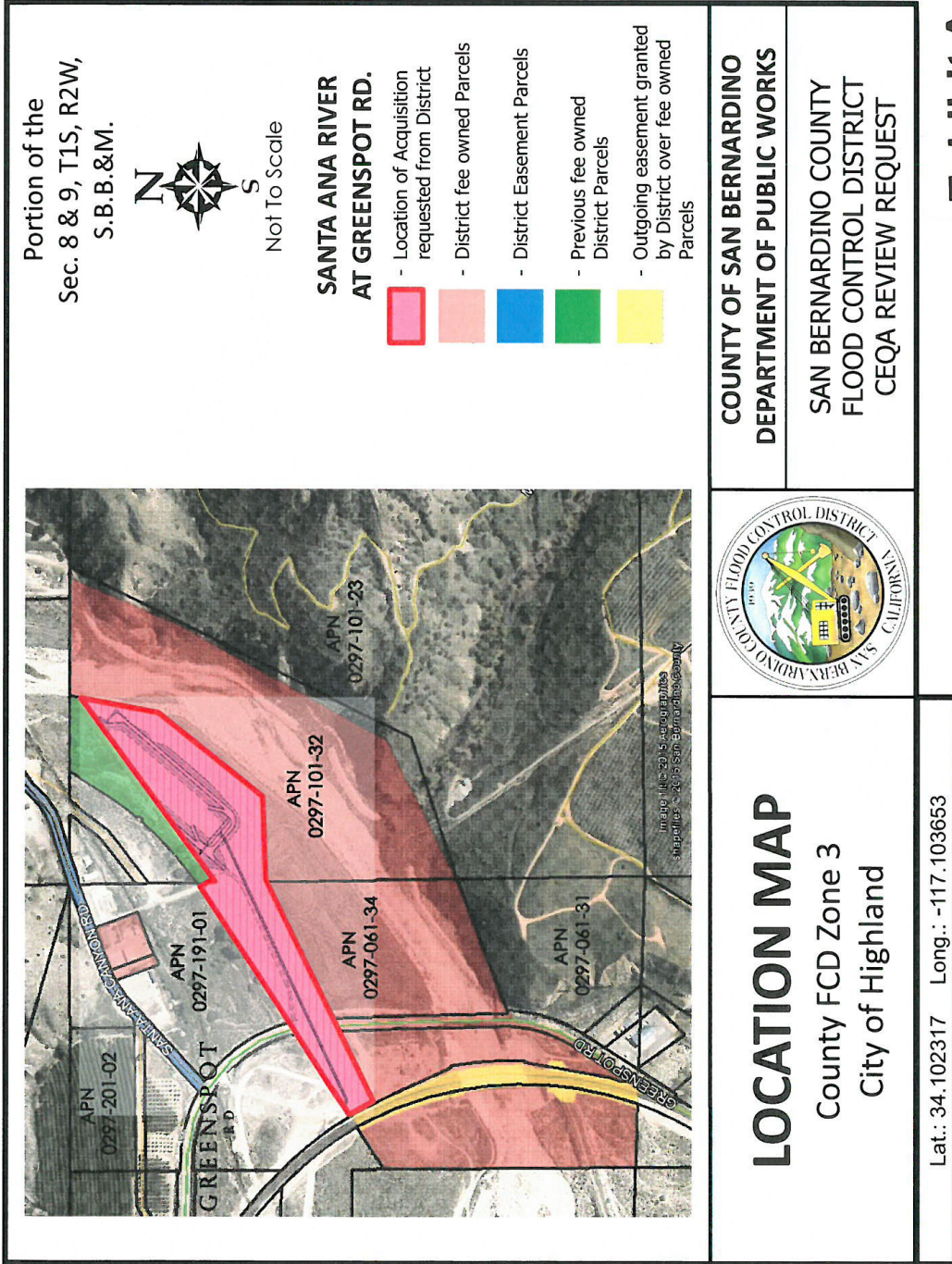
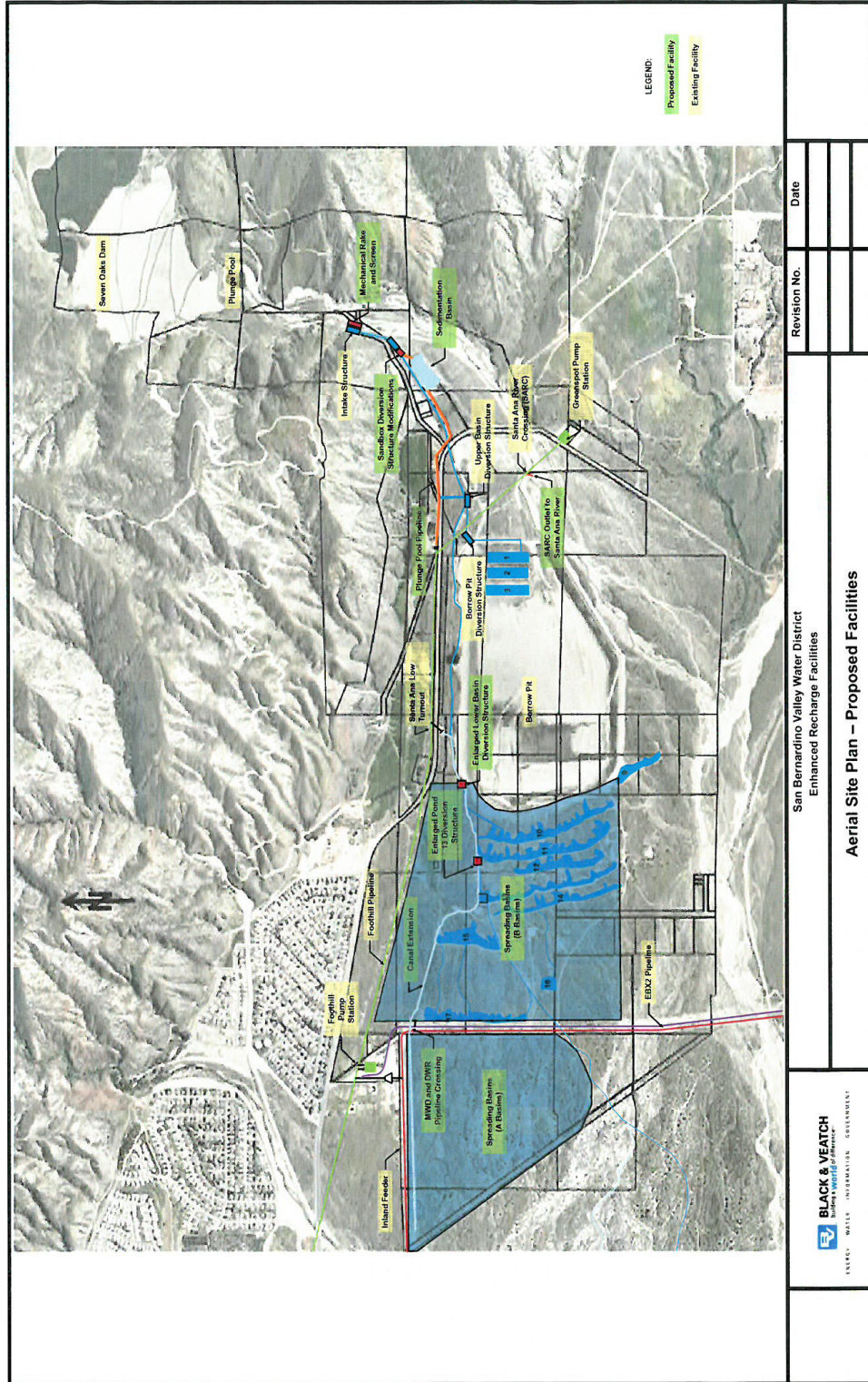


Exhibit A

EXHIBIT "B" TO FINDINGS



 BLACK & VEATCH WATER INFRASTRUCTURE GOVERNMENT	San Bernardino Valley Water District Enhanced Recharge Facilities		Revision No.	Date
	Aerial Site Plan – Proposed Facilities		_____	_____

Exhibit B