

Notice and Agenda of the San Timoteo Sustainable Groundwater Management Agency

Tuesday, January 22, 2019 at 9:00 a.m.

Meeting Location: San Geronio Pass Water Agency
1210 Beaumont Avenue
Beaumont, California 92223
(951) 845-2577

- I. Call to Order**
- II. Roll Call**
- III. Public Comments** At this time, members of the public may address the representatives of the Yucaipa Groundwater Sustainability Agency on matters within its jurisdiction.
- IV. Review of Proposed Basin Modifications for the San Timoteo Basin Area**
 - A. Department of Water Resources Status
 - B. Comments Received by the Department of Water Resources
- V. Discussion Regarding Revised MOA and Bylaws for the San Timoteo SGMA**
- VI. Topics for Future Meetings**
- VII. Announcements - Future Meetings**
 - A. Tuesday, February 26, 2019 at 9:00 am
- VIII. Adjournment**

Conference Call Information:

(571) 317-3122

Access Code: 187-587-301

**MEMORANDUM OF AGREEMENT TO DISSOLVE THE SAN TIMOTEO
WATER RESOURCE MANAGEMENT AGENCY, ESTABLISH THE
BOUNDARY OF THE SAN TIMOTEO WATER RESOURCE MANAGEMENT
AGENCY, AND TO DEVELOP A WATER RESOURCE MANAGEMENT PLAN
FOR PORTIONS OF THE UPPER SANTA ANA VALLEY - SAN TIMOTEO
BASIN NO. 8-002.08**

This Memorandum of Agreement (“MOA”) is entered into by and among Beaumont Cherry Valley Water District (“BCVWD”), City of Banning (“BANNING”), City of Redlands (“REDLANDS”), and Yucaipa Valley Water District (“YVWD”), which may be referred to herein individually as a “Party” and collectively as the “Parties”.

Pursuant to the Sustainable Groundwater Management Act (“SGMA”) and as further set forth herein, the Parties agree to form the San Timoteo Water Resource Management Agency for portions of the Upper Santa Ana Valley - San Timoteo Basin No. 8-002.08 (“Basin”) as provided as Exhibit A and created by the California Department of Water Resources on [DATE].

RECITALS

WHEREAS, on September 16, 2014, Governor Jerry Brown signed into law Senate Bills 1168 and 1319, and Assembly Bill 1739, collectively known as the Sustainable Groundwater Management Act (“SGMA”), codified in certain provisions of the California Government Code, commencing with Section 65350.5, and in Part 2.74 of Division 6 of the California Water Code, commencing with Section 10720; and

WHEREAS, the Sustainable Groundwater Management Act (“SGMA”) went into effect on January 1, 2015; and

WHEREAS, SGMA includes several uncodified findings by the California Legislature, including the determination that the people of the state have a primary interest in the protection, management, and reasonable beneficial use of the water resources of the state, both surface and underground, and that the integrated management of the state’s water resources is essential to meeting its water management goals; and

WHEREAS, the Upper Santa Ana Valley - San Timoteo Basin, as identified by the California Department of Water Resources (“DWR”) Bulletin 118 as Subbasin No. 8-002.08, was originally designated by DWR as medium priority basin requiring compliance with the SGMA; and

WHEREAS, in 2017, the Beaumont Cherry Valley Water District, City of Redlands, San Geronio Pass Water Agency, and the Yucaipa Valley Water District formed the San Timoteo Groundwater Sustainability Agency in compliance with the requirements of SGMA.

WHEREAS, in May 2018, DWR revised the groundwater basin prioritization for the Upper Santa Ana Valley - San Timoteo No. 8-002.08 from a medium priority to a very low priority. While the Legislature encourages groundwater basins designated as very low to be managed under groundwater sustainability plans, the Sustainable Groundwater Management Act (California Water Code, Part 2.74, Chapter 11 - State Intervention, Section 10735) does not apply.

WHEREAS, the Parties recognize and agree that a portion of the Basin is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197, and that said portion of the Basin is specifically excluded from the jurisdiction of the San Timoteo Water Resource Management Agency; and

WHEREAS, in accordance with the terms of this MOA, and in furtherance of the shared intent of the Parties to maximize funding opportunities for the Basin and avoid potential intervention in the Basin by the State of California, the Parties agree that the San Timoteo Water Resource Management Agency be formed by this MOA to cover the entire Basin except that a portion of the Basin is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197; and

WHEREAS, the Parties mutually desire and intend to work with local stakeholders and interested entities in the Basin that are not Parties to this MOA, including but not limited to the City of Beaumont (Beaumont), the City of Calimesa (Calimesa), San Bernardino Valley Municipal Water District, San Gorgonio Pass Water Agency, Eastern Municipal Water District, the County of Riverside Planning Department, the County of San Bernardino Flood Control District, the Beaumont Basin Watermaster, overlying landowners, and others, and as further specified in this MOA, to carry out the policy, purposes, requirements, and best management practices to manage surface water, ground water, and water quality within and tributary to the Basin.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, terms, conditions, and covenants contained herein, it is mutually understood and agreed as follows:

- I. **Incorporation of Recitals.** The Recitals stated above are incorporated herein by reference.
- II. **Purpose.** The purpose of this MOA is to form the San Timoteo Water Resource Management Agency for the Upper Santa Ana Valley - San Timoteo Basin No. 8-002.08 ("Basin") and provided in Exhibit A.
- III. **Dissolution of the San Timoteo Groundwater Sustainability Agency ("ST-GSA").** Approval of this MOA will dissolve the previously formed ST-GSA and shall be accomplished by BANNING, BCVWD, REDLANDS, and YVWD each holding its own noticed public hearing pursuant to Government Code Section 6066 and at such hearing will consider approval of a Resolution by its governing board to enter into this MOA and jointly form the San Timoteo Water Resource Management Agency as specified in this MOA.
- IV. **Definitions.** The following terms, whether used in the singular or plural, and when used with initial capitalization, shall have the meanings specified herein.
 - A. "Basin" refers to the Upper Santa Ana Valley - San Timoteo Basin No. 8-002.08, designated by the California Department of Water Resources Bulletin 118 and depicted in **Exhibit A** to this MOA.
 - B. "BANNING" means the City of Banning.
 - C. "BCVWD" means the Beaumont Cherry Valley Water District.

- D. "Board of Directors" means the primary and alternate representative from each Party.
- E. "DWR" means the California Department of Water Resources.
- F. "Memorandum of Agreement" or "MOA" refers to this Memorandum of Agreement.
- G. "Operational Zone" a specifically designated area of the Upper Santa Ana Valley - San Timoteo Basin No. 8-002.08 ("Basin") set forth by resolution of the Board of Directors of the San Timoteo Water Resource Management Agency.
- H. "Party" or "Parties" refers individually or collectively to Beaumont Cherry Valley Water District, City of Banning, City of Redlands, and Yucaipa Valley Water District, as signatories to this MOA.
- I. "REDLANDS" means the City of Redlands.
- J. "SGMA" refers to the Sustainable Groundwater Management Act.
- K. "Water Resource Management Plan" means a physical solution to the management of water resources which includes, but is not limited to, groundwater, surface water, precipitation, and water quality within the Basin.
- L. "YVWD" means the Yucaipa Valley Water District

V. Boundary of Adjudication. The Parties understand and agree that the portion of the Basin which is subject to the Beaumont Basin adjudication and Judgment in the case referred to as *San Timoteo Watershed Management Authority v. City of Banning, et al.*, Riverside County Superior Court Case No. RIC 389197, is not part of this MOA and that the Parties of this MOA will coordinate water resource management activities directly with the Beaumont Basin Watermaster.

VI. Coordination and Cooperation

- A. Continued Cooperation. The Parties to this MOA will continue to meet, confer, coordinate, and collaborate to discuss and develop technical, managerial, financial, and other criteria and procedures for the preparation, governance, and implementation of a Water Resource Management Plan in the Basin.
- B. Points of Contact. Each Party shall designate a principal contact person and an alternate contact person for that Party, as a senior executive management level employee who may be changed from time to time in writing at the sole discretion of the designating Party.
 - 1. The designated individuals from each Party shall jointly form the Board of Directors of the San Timoteo Water Resource Management Agency.
 - 2. In the event that the appointed representative(s) is/are no longer employed by the appointing Party, the individual will be removed as a member of the Board of Directors of the San Timoteo Water Resource Management Agency.
- C. Stakeholders. The Parties agree to work together to ensure outreach and involvement of the public and other interested stakeholders. The Parties acknowledge, agree, and

desire that the preparation, adoption, and implementation of the Water Resource Management Plan will involve close coordination and cooperation with stakeholders and other interested parties.

- D. Technical Advisory Group - The Parties agree to form one or more Technical Advisory Groups that may include:
- i. Agricultural Stakeholders
 - ii. Commercial and Industrial Stakeholders
 - iii. Land Use Stakeholders
 - iv. Regulatory Stakeholders
 - v. Resource Agency Stakeholders
 - vi. State Water Contractors

VII. Roles and Responsibilities

- A. The Parties agree to jointly establish their roles and responsibilities for implementing a Water Resource Management Plan for the Basin.
- B. The Parties agree to work in good faith and coordinate all activities to carry out the purposes of this MOA in implementing the policy, purposes, funding, and related requirements in the Basin.
- C. As provided in this MOA, the Parties will meet, confer, coordinate, and collaborate to discuss and develop governance, management, technical, financial, and other matters, including respective roles and responsibilities for activities such as, but not limited to, the following:
1. To adopt rules, regulations, policies, bylaws, and procedures governing the operation of the San Timoteo Water Resource Management Agency.
 2. To establish as-needed Ad Hoc and Standing advisory committees for making recommendations to the Board of Directors. Committees shall exist for the term specified in the action creating the committee, and the Board of Directors may dissolve a committee at any time through a majority vote of the Parties.
 3. To monitor all public and private groundwater production and extractions.
 4. To develop a Water Resource Management Plan.
 5. To prepare an Annual Groundwater Report that reflects: all public and private groundwater extractions; natural and artificial recharge; return from use; water quality issues; contamination plumes; and other parameters deemed necessary by the Board of Directors to accurately determine the quantity and quality of the groundwater conditions in the Basin.
 6. To determine the amount of additional recharge for the Basin from imported, precipitation, supplemental, and other water resources as a complement to native sources, and to plan for the development and application of such resources.
 7. By a majority vote, the Board of Directors may elect to exercise the following powers for a duration determined or modified as needed:

- a. To adopt appropriate rules and regulations for the conduct of affairs, copies of which shall be available online.
- b. To contract for the services of engineers, attorneys, planners, financial consultants, and separate and apart therefrom, to appoint agents and representatives to employ such other staff persons as necessary.
- c. To determine, assess, collect, account, and audit annual groundwater extraction charges to recover expenses related to groundwater recharge, administrative expenses, data collection, and report preparation as determined by the Board of Directors.
- d. To cooperate, act in conjunction, and contract with the United States, the State of California, or any agency thereof, counties, municipalities, public and private corporations of any kind (including without limitation, investor-owned utilities), and individuals, or any of them, for any and all purposes necessary or convenient for the purposes of the San Timoteo Water Resource Management Agency.
- e. To accumulate operating and reserve funds and invest the same as allowed by law for the purposes of the San Timoteo Water Resource Management Agency.
- f. As may be permitted by law, to apply for and accept grants, contributions, donations, and loans, including under any federal, state, or local programs for assistance in developing or implementing any of its projects or programs in connection with any project undertaken by the San Timoteo Water Resource Management Agency.
- g. To implement a cost-sharing methodology in a manner that qualifies as a pass-through charge under the Constitutional requirements of Proposition 218 and similar revenue-raising requirements.
- h. To exercise any power necessary or incidental to the foregoing powers in the manner and according to the procedures provided for under the law applicable to the Parties to this Agreement.
- i. To provide oversight and assist in the efforts to document and achieve the Maximum Benefit Objectives set forth by the Regional Water Quality Control Board - Santa Ana Region.
- j. To develop one or more Operational Zone(s) of the Upper Santa Ana Valley - San Timoteo Basin No. 8-002.08 to provide effective groundwater management in such a manner that provides effective and efficient operational control and independent responsibility for the collective benefit of the Parties.

VIII. Funding and Budgeting. The Parties shall mutually develop reasonable budgets and cost sharing agreements or arrangements for work to be undertaken in carrying out the creation, modification, and implementation of the Water Resource Management Plan.

- A. The Board of Directors of the San Timoteo Water Resource Management Agency shall be empowered to levy and collect the following assessments:

1. Annual Replenishment Assessment. The Board of Directors shall annually levy and collect assessments sufficient to replenish any overproduction or impacts to water quality inconsistent with the Santa Ana Regional Water Quality Control Board Basin Plan for the San Timoteo Basin.
2. Administrative Assessment. The Board of Directors shall annually distribute the administrative costs for the San Timoteo Water Resource Management Agency equally between the Parties.
3. Special Project Expenses. Each Party may construct and operate extraction, recharge, and environmental projects within the Basin that are the sole responsibility of that Party.
4. Legal Expenses. Each Party reserves the right to share legal related expenditures by separate agreement, or individually fund legal related expenses. Closed session discussions regarding litigation or pending litigation will be noticed and conducted by each individual Party pursuant to the Brown Act. An opposing Party involved or potentially involved in litigation with the San Timoteo Water Resource Management Agency shall be excluded from any closed session with the other Parties.

IX. Meetings and Officers.

- A. Regular Meetings. The Parties shall, by resolution, set forth the regular meeting dates and times for the purpose of conducting routine business matters. The Parties, by resolution, may fix and adjust the time, date, and place of holding such meetings.
- B. Workshops and Special Meetings. The Parties may schedule, and conduct workshops and special meetings as needed at the direction of a majority of the Board of Directors. The Parties, by resolution, may fix the time, date, and place of holding such meetings.
- C. Voting Methodology. The voting structure for actions taken by the San Timoteo Water Resource Management Agency shall be by simple majority (51%) of the voting Parties wherein each Party holds a single vote.
- D. Fees and Compensation. Representatives from each Party shall receive no compensation or expenses from the San Timoteo Water Resource Management Agency.
- E. Ralph M. Brown Act. All meetings shall be subject to the Ralph M. Brown Act, commencing at Section 54950 of the Government Code of the State of California.
- F. Conduct of Meetings. The Chairperson or, in the absence of the Chairperson, the Vice Chairperson, or, in the absence of the Vice-Chairperson the Secretary, or, in the absence of the Secretary a Chairperson chosen by a majority of the Parties present, shall preside over the meeting.
- G. Quorum. A majority of the Parties constitutes a quorum for the transaction of business.
- H. Officers. The officers of the San Timoteo Water Resource Management Agency shall be a Chairperson, a Vice-Chairperson, a Secretary, and a Treasurer.

1. Election. The officers shall be chosen at the first Regular Meeting held each calendar year and each shall hold office until the officer resigns, is removed, or be otherwise disqualified to serve, or the officer's successor is elected.
2. Removal and Resignation. Any officer may resign, or may be removed, with or without cause, at any time. Vacancies caused by death, resignation or removal of any officer may be filled by a majority vote of the Parties.
3. Chairperson. The Chairperson shall preside at all meetings of the Parties.
4. Vice-Chairperson. In the absence of the Chairperson, the Vice-Chairperson shall perform all the duties of the Chairperson.
5. Secretary. The Secretary shall keep a book of minutes of all meetings, with the time and place of holding, the names of those present, and actions taken by the Parties.
6. Treasurer. The Treasurer shall keep and maintain adequate and correct books of account showing the receipts and disbursements of the San Timoteo Water Resource Management Agency, and an account of its cash and other assets, if any. Such books of account shall at all reasonable times be open to inspection by any Board of Director.

The Treasurer shall deposit all moneys of the San Timoteo Water Resource Management Agency with such depositories as are designated by the Parties and shall disburse the funds of the San Timoteo Water Resource Management Agency as may be ordered, and shall render to the Parties, regular statements of the financial condition of the San Timoteo Water Resource Management Agency.

X. Term, Termination, and Withdrawal.

- A. Term. This MOA shall continue and remain in effect unless and until terminated by the unanimous written consent of the Parties, or as otherwise provided in this MOA or as authorized by law.
- B. Withdrawal. Any Party may decide, in its sole discretion, to withdraw from this MOA by a resolution of the withdrawing Party, which resolution shall specifically state: (1) the acknowledgement that the withdrawing Party shall remain obligated to fund, pay and contribute its share of all current and future expenses/contract incurred, accrued, or approved by the Board of Directors up to the date the resolution is adopted; and (2) the acknowledgement that the withdrawing Party immediately rescinds all voting privileges effective on the date of said resolution, recognition as an officer (if applicable), and not recognized as quorum for the conduct of business.
- C. Joining or Rejoining. A Party that joins, or withdraws and desires to rejoin the San Timoteo Water Resource Management Agency may do so by separate agreement unanimously approved by the active Parties that considers, but does not require, the financial contribution of a calculated proportional share of expenses accrued since the start of this MOA, or time of withdrawal, plus 10% payable in proportionate shares to each Party, or non-withdrawing Party.

XI. Notice Provisions

All notices required by this MOA shall be made in writing and delivered to the respective representatives of the Parties at their respective addresses as follows:

Beaumont Cherry Valley Water District
560 Magnolia Avenue
Beaumont, California 92223
City of Banning
99 E Ramsey Street
Banning, CA 92220

City of Redlands
35 Cajon Street
Redlands, California 92373
Yucaipa Valley Water District
12770 Second Street
Yucaipa, California 92399

Any Party may change the address to which notices are to be given under this MOA by providing all other Parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change. All notices shall be effective upon receipt and shall be deemed received upon confirmed personal service, confirmed facsimile delivery, confirmed courier service, or on the fifth (5th) calendar day following deposit of the notice in registered first class mail.

XII. General Terms

- A. Fiscal Year. The fiscal year of the San Timoteo Water Resource Management Agency shall begin July 1 of each year and end on the last day of June of the succeeding year.
- B. Amendments. Amendments to this MOA require unanimous written consent of all Parties and approval by the Parties' respective governing boards.
- C. Successors and Assigns. The terms of this MOA shall be binding upon all successors in interest and assigns of each Party; provided, however, that no Party shall assign its rights or obligations under this MOA without the signed written consent of all other Parties to this MOA.
- D. Waiver. No waiver of any provision of this MOA by any Party shall be construed as a further or continuing waiver of such provision or any other provision of this MOA by the waiving Party or any other Party.
- E. Authorized Representatives. Each person executing this MOA on behalf of a Party hereto affirmatively represents that such person has the requisite authority to sign this MOA on behalf of the respective Party.
- F. Exemption from CEQA. The Parties recognize and agree that this MOA is expressly exempt from CEQA review.
- G. Governing Law and Venue. This MOA shall be governed by and construed in accordance with the laws of the State of California. Any suit, action, or proceeding brought under the scope of this MOA shall be brought and maintained to the extent allowed by law in the County of Riverside, California.
- H. Attorney's Fees, Costs, and Expenses. In the event of a dispute among any or all of the Parties arising under this MOA, each Party shall assume and be responsible for its own attorney's fees, costs, and expenses.

- I. Entire Agreement/Integration. This MOA constitutes the entire agreement among the Parties regarding the specific provisions of this MOA, and the Parties hereto have made no agreements, representations or warranties relating to the specific provisions of this MOA which are not set forth herein.
- J. Construction and Interpretation. The Parties agree and acknowledge that this MOA has been developed through a negotiated process among the Parties, and that each Party has had a full and fair opportunity to review the terms of this MOA with the advice of its own legal counsel and to revise the terms of this MOA, such that each Party constitutes a drafting Party to this MOA. Consequently, the Parties understand and agree that no rule of construction shall be applied to resolve any ambiguities against any particular Party as the drafting Party in construing or interpreting this MOA.
- K. Force Majeure. No Party shall be liable for the consequences of any unforeseeable force majeure event that (1) is beyond its reasonable control, (2) is not caused by the fault or negligence of such Party, (3) causes such Party to be unable to perform its obligations under this MOA, and (4) cannot be overcome by the exercise of due diligence. In the event of the occurrence of a force majeure event, the Party unable to perform shall promptly notify the other Parties in writing to the extent practicable. It shall further pursue its best efforts to resume its obligations under this MOA as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the force majeure event.
- L. Execution in Counterparts. This MOA may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same instrument.
- M. No Third-Party Beneficiaries. This MOA is not intended, and will not be construed, to confer a benefit or create any right on a third party or the power or right of any third party to bring an action to enforce any of the terms of this MOA.
- N. Timing and Captions. Any provision of this MOA referencing a time, number of days, or period for performance shall be measured in calendar days. The captions of the various articles, sections, and paragraphs of this MOA are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, terms, or intent of this MOA.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this MOA as of the respective dates specified in the adopting Resolution of each Party as provided above in Article III of this MOA.

[The remainder of this page has been intentionally left blank.]

BEAUMONT CHERRY VALLEY WATER DISTRICT

By:

President, Board of Directors

Attest:

Secretary, Board of Directors

Approved as to form:

Counsel, Beaumont Cherry Valley Water District

Notices for the Beaumont Cherry Valley Water District shall be sent as follows:

Attention: General Manager
560 Magnolia Avenue
Beaumont, California 92223

With copies to:

CITY OF BANNING

By:

Mayor, City Council

Attest:

Secretary, City Council

Approved as to form:

Counsel, City of Banning

Notices for the City of Banning shall be sent as follows:

Attention: City Manager
99 E Ramsey Street
Banning, CA 92220

With copies to:

CITY OF REDLANDS

By:

Mayor, City Council

Attest:

Secretary, City Council

Approved as to form:

Counsel, City of Redlands

Notices for the City of Redlands shall be sent as follows:

Attention: City Manager
35 Cajon Street
Redlands, California 92373

With copies to:

YUCAIPA VALLEY WATER DISTRICT

By:

President, Board of Directors

Attest:

Secretary, Board of Directors

Approved as to form:

Counsel, Yucaipa Valley Water District

Notices for the San Gorgonio Pass Water Agency shall be sent as follows:

Attention: General Manager
12770 Second Street
Yucaipa, California 92399

With copies to:

Exhibit A

