

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION**

**MEETING OF JUNE 9, 2010  
Kings Beach**

**ITEM:** 11

**SUBJECT:** **RATIFICATION OF AMENDED SUPPLEMENTAL ENVIRONMENTAL PROJECT PURSUANT TO PROVISIONS IN ORDER NO. R6V-2007-0034 FOR COUNTY SANITATION DISTRICTS NOS. 14 AND 20 OF LOS ANGELES COUNTY, LOS ANGELES COUNTY**

**CHRONOLOGY:** November 29, 2007 – Administrative Civil Liability Order adopted

**ISSUE:** Should the Lahontan Water Board adopt a resolution approving an alternate supplemental environmental project pursuant to the provisions of Order No. R6V-2007-0034?

**DISCUSSION:** The Administrative Civil Liability Order (Order) referenced above was part of a settlement of claims against the County Sanitation Districts Nos. 14 and 20 of Los Angeles County (Districts). The Order imposed a \$4.75M liability against the Districts of which \$4.55M was to be paid into an escrow account in six annual payments to fund a supplemental environmental project (SEP). Currently the escrow account contains \$1.52M plus interest. The SEP contemplated funding Phases 1B or 2 (Enclosure 2) of the Antelope Valley Recycled Water Project (Project). At the time the SEP was approved, these were the next phases of the Project that were contemplated to be constructed.

Since the Order was adopted conditions have changed:

- The phasing and alignments of the various phases have changed. A portion of Phase 1B is not planned to be completed by 2015 and portions of Phase 2 have either been re-aligned or will be built after 2015.
- Federal stimulus funds have become available and include specific match requirements.
- The U.S. Army Corps of the Engineers administers both the Federal stimulus funds and the matching funds to construct the project.

**11-0001**

Section 3.b. of the Order (Enclosure 3) allows the Districts' Chief Engineer and General Manager and Water Board Executive Officer to recommend an alternate SEP if it is determined that the Project is not proceeding towards construction and completion by July 15, 2015. The fundamental purpose of the SEP was to aid and encourage the completion of the Project. The Phases identified in the Order for funding were based solely on projected implementation timing in the mid-2000. In acknowledgement of the changed conditions and the fundamental purpose of the SEP, the Districts' Chief Engineer and General Manager and Water Board Executive Officer are recommending (See Attachment to Proposed Resolution which is Enclosure 1) that the Water Board and Districts Boards approve an alternate SEP that allows funding of any phase of the Project. The letter includes a diagram of the revised alignment of the Antelope Valley Recycled Water Project.

**RECOMMENDATION:** Adoption of the Resolution (Enclosure 1) as proposed.

Enclosure:

1. Proposed Resolution including attachment
2. Initial Phases of Antelope Valley Recycled Water Project
3. Excerpts from Order No. R6V-2007-0034

# ENCLOSURE 1

11-0008

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION

**RESOLUTION NO. R6T 2010-(PROPOSED)**

**APPROVAL OF ALTERNATE SUPPLEMENTAL ENVIRONMENTAL PROJECT  
PURSUANT TO ORDER NO. R6V-2007-0034  
COUNTY SANITATION DISTRICTS NO. 14 AND 20 OF LOS ANGELES COUNTY  
ANTELOPE VALLEY RECYCLED WATER PROJECT**

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**WHEREAS**, the California Regional Water Quality Control Board, Lahontan Region (hereinafter Water Board) finds:

1. On November 29, 2007, the Water Board adopted Administrative Civil Liability Order No. R6V-207-0034 (Order) against the County Sanitation Districts No. 14 and 20 of Los Angeles County (Districts).
2. The Order imposed a \$4.75M liability against the Districts. The Order suspended \$4.55M of the liability provided that this money would be used to fund a supplemental environmental project (SEP) that consisted of two distinct phases of the Antelope Valley Recycled Water Project (Project).
3. Provision 3.b. on page 21 of the Order provides in part that:

“The Water Board Executive Officer and Districts’ Chief Engineer and General Manager will meet and confer between July 2009 and July 2011 to discuss whether the Antelope Valley Recycled Water Project infrastructure is proceeding forward towards construction and completion of infrastructure improvements within the July 1, 2015 timeframe. If, at that time, the Water Board Executive Officer and Districts’ Chief Engineer and General Manager agree that the Antelope Valley Recycled Water Project is not expected to proceed, the Water Board Executive Officer and Districts’ Chief Engineer and General Manager will subsequently meet and confer to agree upon an alternate supplemental environment project(s) for recommendation to the Water Board and Districts’ Boards for approval.”
4. In a letter dated June 3, 2010 (attached), the Districts’ Chief Engineer and General Manager outlined the results of the meet and confer process provided for in Provision 3.b. of the Order. The letter documents the reasons why the currently approved phases of the Antelope Valley Recycled Water Project will not move forward within the timeframe for completion. Additionally, the letter describes an alternate SEP that is recommended to be substituted for the currently approved SEP. The alternate SEP consists of any sections of the Antelope Valley Recycled Water Project and provides for pre-project funding under limited circumstances. The Water Board Executive Officer has accepted the letter as an accurate representation of the meet and confer process and concurs with the recommendation.
5. The Water Board supports the recommendation of its Executive Officer and Districts’ Chief Engineer and General Manager.

11-0004

**THEREFORE BE IT RESOLVED THAT:**

The Water Board accepts the alternate SEP as identified in the attached June 3, 2010 letter in lieu of the SEP approved as part of Administrative Civil Liability Order No. R6V-207-0034.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on June 9, 2010.

\_\_\_\_\_  
HAROLD J. SINGER  
EXECUTIVE OFFICER

Attachment: June 3, 2010 letter

PROPOSED

# ATTACHMENT

11-0006



## COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

1955 Workman Mill Road, Whittier, CA 90601-1400  
Mailing Address: P.O. Box 4998, Whittier, CA 90607-4998  
Telephone: (562) 699-7411, FAX: (562) 699-5422  
www.lacsd.org

STEPHEN R. MAGUIN  
Chief Engineer and General Manager

June 3, 2010  
File No. 14-14.01-55

Harold J. Singer, Executive Officer  
California Regional Water Quality Control Board  
Lahontan Region  
2501 Lake Tahoe Blvd.  
South Lake Tahoe, CA 96150

Dear Mr. Singer:

**Proposal for Alternate Supplemental Environmental Project  
Pursuant to the Provisions of Order No. R6V-2007-0034**

This letter confirms the results of our discussions conducted pursuant to Section 3.b. of California Regional Water Quality Control Board, Lahontan Region (Water Board) Order No. R6V-2007-0034 (Order). This section provides that the Chief Engineer and General Manager of County Sanitation District Nos. 14 and 20 of Los Angeles County (collectively referred to as the "Districts") and the Executive Officer of the Water Board can meet and confer to determine if the supplemental environmental project (SEP) identified in the Order will proceed as expected.

As a result of our meet and confer, we mutually determined that:

1. The SEP in the Order identified Phases 1B and 2 of the Antelope Valley Recycled Water Project (Project) as being eligible for funding pursuant to the Order. A portion of Phase 2 of the Project (as contemplated in the SEP) is not anticipated to be constructed prior to July 1, 2015. Additionally, portions of Phases 1B and 2 of the Project have been combined into other Project sections realigned or funded with grant funds.
2. Project phases other than 1B and 2 are still to be constructed and, if made a part of the SEP, would be constructed prior to July 1, 2015. Construction of these phases would greatly facilitate distribution and use of recycled water, which was the goal in funding the SEP.
3. The recent involvement of the U.S. Department of Army (U.S. Army Corps of Engineers) in the construction of some of these Project sections includes contract and fund management procedures that ensure that any pre-construction committed funding will be used for project construction. These procedures address the concerns of the Water Board when it included a provision in the Order restricting distribution of funds until project sections were constructed and operational.

DOC# 1592434

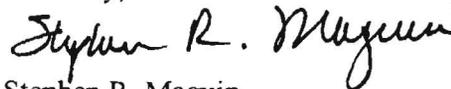
Section 3.b. of the Order also provides that the Water Board Executive Officer and Districts' Chief Engineer and General Manager can agree upon an alternate SEP if they find that the approved SEP will not be operational by July 1, 2015. This alternate SEP must be approved or ratified by both the Districts' Boards and the Water Board. Based on our discussions, we are mutually proposing the following alternate SEP:

- A. The alternate SEP shall consist of any sections of the Antelope Valley Recycled Water Project as identified on the enclosed Figure 1, including any section that would connect to Project sections and that would facilitate distribution and use of recycled water via the Project.
- B. Only construction costs will be eligible for reimbursement and only once the specific section is constructed and operational, except as provide in C. below.
- C. Monies paid by the Districts to the escrow account pursuant to the Order may be released in advance of construction and use if needed to provide a local match, only if the U.S. Army Corps of Engineers will be overseeing and contracting for the construction of a specific section as part of its responsibility in administering federal funds. Additionally, the section to be constructed must, upon completion, be tied into a fully operational (used to distribute recycled water) section of the Antelope Valley Recycled Water Project. In such case, the moneys must be transferred directly to the account that is controlled and managed by the U.S. Army Corps of Engineers for the sole purpose of constructing the section of the Project.

The Districts will request our Boards to consider and approve or ratify the alternate SEP at the earliest possible date.

Our signatures on this letter signify our agreement to support the findings stated above and the alternate SEP as described above.

Sincerely,



Stephen R. Maguin

Accepted by:

\_\_\_\_\_  
Harold J. Singer  
Executive Officer  
Lahontan Water Board

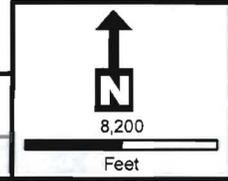
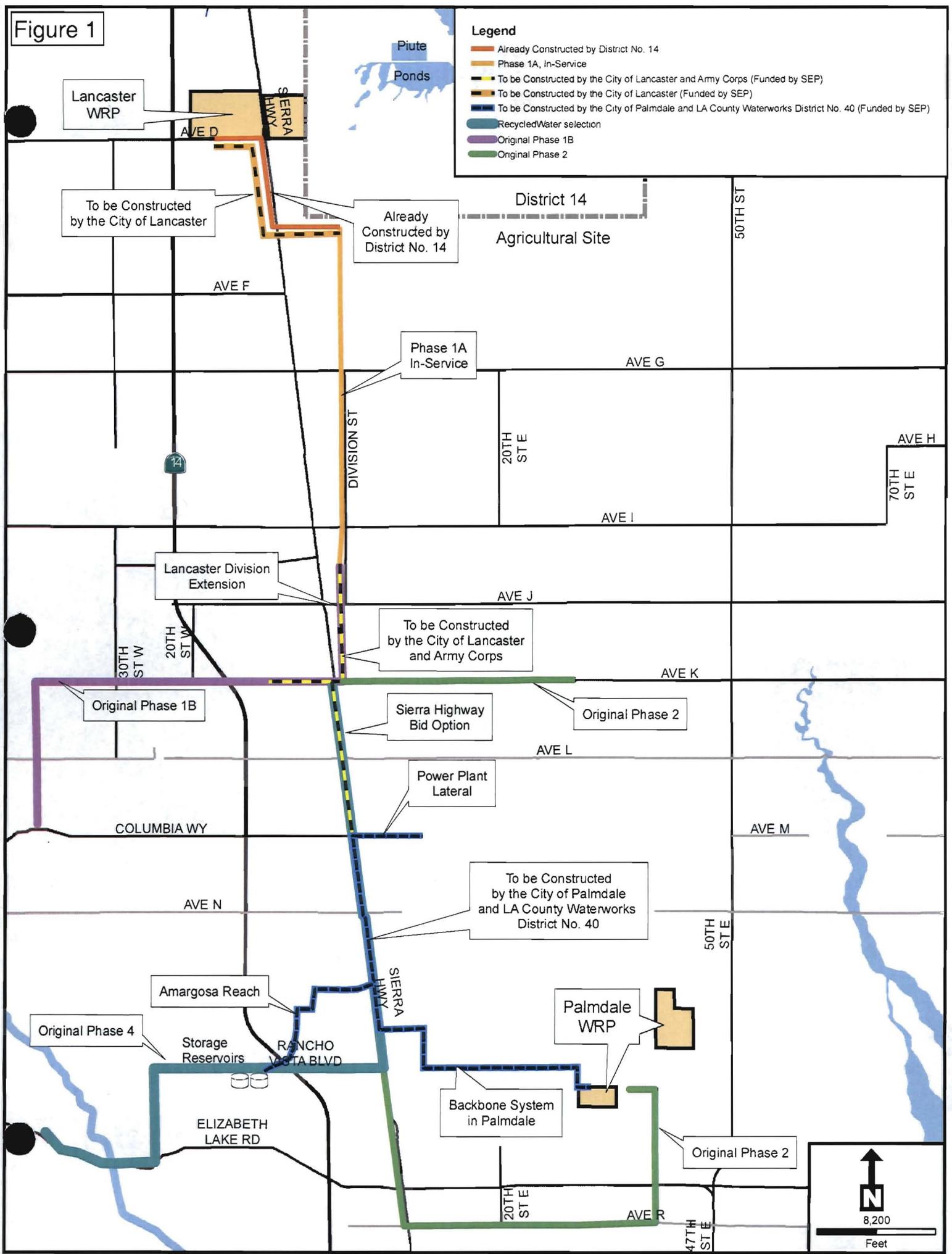
Dated: \_\_\_\_\_

SRM:TW:lmb

Figure 1

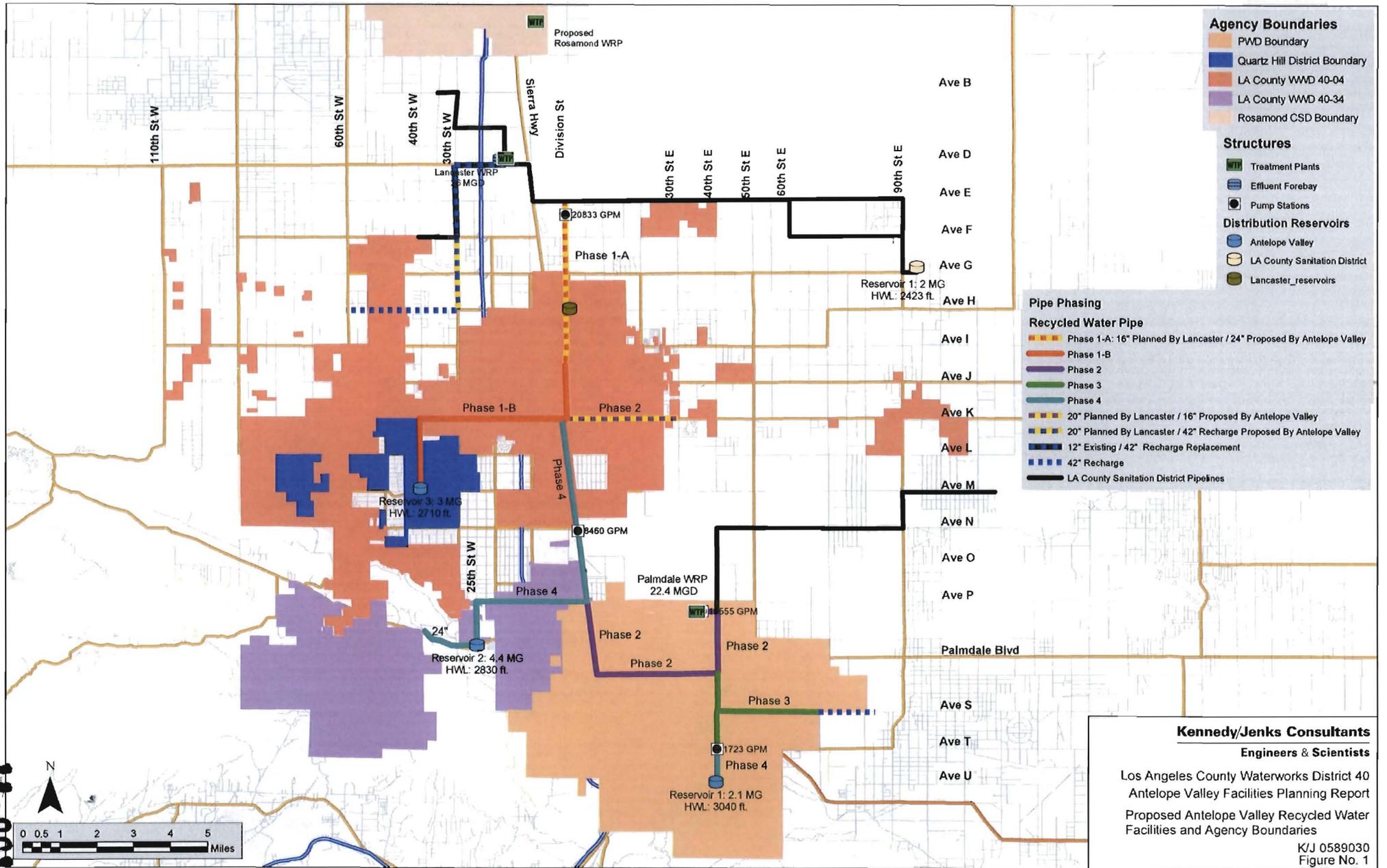
Legend

- Already Constructed by District No. 14
- Phase 1A, In-Service
- To be Constructed by the City of Lancaster and Army Corps (Funded by SEP)
- To be Constructed by the City of Lancaster (Funded by SEP)
- To be Constructed by the City of Palmdale and LA County Waterworks District No. 40 (Funded by SEP)
- Recycled Water selection
- Original Phase 1B
- Original Phase 2



## **ENCLOSURE 2**

11-0010



- Agency Boundaries**
- PWD Boundary
  - Quartz Hill District Boundary
  - LA County WWD 40-04
  - LA County WWD 40-34
  - Rosamond CSD Boundary

- Structures**
- Treatment Plants
  - Effluent Forebay
  - Pump Stations
- Distribution Reservoirs**
- Antelope Valley
  - LA County Sanitation District
  - Lancaster\_reservoirs

- Pipe Phasing**
- Recycled Water Pipe**
- Phase 1-A: 16" Planned By Lancaster / 24" Proposed By Antelope Valley
  - Phase 1-B
  - Phase 2
  - Phase 3
  - Phase 4
- Recharge**
- 20" Planned By Lancaster / 16" Proposed By Antelope Valley
  - 20" Planned By Lancaster / 42" Recharge Proposed By Antelope Valley
  - 12" Existing / 42" Recharge Replacement
  - 42" Recharge
  - LA County Sanitation District Pipelines

**Kennedy/Jenks Consultants**  
**Engineers & Scientists**

Los Angeles County Waterworks District 40  
 Antelope Valley Facilities Planning Report  
 Proposed Antelope Valley Recycled Water  
 Facilities and Agency Boundaries

K/J 0589030  
 Figure No. 1

# ENCLOSURE 3

11-0012

Based on these assumptions, the BEN model results estimate that District 20 derived an economic benefit in the amount of slightly more than **\$8.7 million** by delaying its implementation of a treatment and/or storage system to prevent continued nitrate pollution of ground water and comply with the requirements established in Board Order No. 6-00-57.

While the Water Board can impose a liability that recovers the economic benefit enjoyed by the discharger as a result of non-compliance, in this situation, the calculated economic benefit is significant. Additionally, public entities do not enjoy the same economic benefit of delaying compliance as those enjoyed by private companies. The proposed liability assessment is significantly greater than any liability heretofore imposed by a regional water board against a public agency. It is not reasonable, under these circumstances, to impose a liability assessment that recovers the entire economic benefit in this case.

- k. Other matters as justice may require

Lahontan Water Board staff estimates that staff resources worth at least **\$50,000** were expended in preparation of this complaint and tracking violations and Districts' actions associated with the violations in the last year. This effort has directed staff away from other water quality matters.

14. Supplemental Environmental Project

The Districts, as a part of the Settlement Agreement, have proposed that a portion of the liability (\$4,550,000) be suspended provided such sums are expended on construction of components of the Antelope Valley Recycled Water Project (Project) (Attachment B). This Project involves the construction of a regional recycled water distribution system linking water reclamation facilities with municipal and other reuse sites throughout the Antelope Valley. The Project will serve the Cities of Palmdale and Lancaster and unincorporated areas of northern Los Angeles County, and may, in the future, be extended to serve Rosamond and southern Kern County. This project will benefit the environment and the communities it serves by enhancing reuse of recycled water, facilitating ground water recharge projects, and relieving demand on ground water and other potable water supplies.

The Project will consist of a water conveyance system that will transport recycled water from the Palmdale, Lancaster and, eventually Rosamond, water reclamation plants to reuse sites. A backbone pipeline system will connect the three treatment plants and a network of smaller pipelines will convey the water to the reuse sites. Once completed, the overall Project will consist of more than 200,000 linear feet of piping, three storage reservoirs, two main pump stations and two booster pump stations. The total capital cost of the Project is estimated at approximately \$119,000,000. As a component of this settlement, the Districts will fund \$4,550,000 of the infrastructure (pipelines, pump stations) either the projects currently described as Phase IB or Phase 2.

The Districts' proposal includes the provision that it will fund components of the project only upon those components being completed and used for the delivery of recycled water. The trust account or other impoundment account must include the following conditions as a requirement for of payment of funds from the account:

- a. funds must only be used by the Antelope Valley Recycled Water project for infrastructure improvements (i.e., to construct the projects currently described as Phase 1-B or Phase 2) and cannot be used for planning documents or planning purposes, or, alternatively, funds must only be used by the recipient(s) of alternative supplemental environmental project(s) approved by the Water Board and Districts' Boards.
- b. any interest paid in the trust account or other impoundment account will be allocated towards the SEP.
- c. if payment is towards the Antelope Valley Recycled Water Project, payment to the Antelope Valley Recycled Water Project proponents will not occur until the targeted infrastructure is completed and used for the delivery of recycled water.

15. SEP Criteria

The SEP meets the criteria established by the State Water Board in its *Water Quality Enforcement Policy*, dated February 19, 2002 in that it (1) will enhance the beneficial uses of ground water and imported surface water by substituting reclaimed wastewater for appropriate uses, (2) will provide a benefit to the public at large by providing reclaimed wastewater for public and private uses in the Antelope Valley, (3) it will not directly benefit the Water Board functions or staff, and (4) it is not otherwise required of the Dischargers. The SEP also has a nexus with the violations (pollution of ground water), in that it funds construction of infrastructure to deliver reclaimed water to uses that, without this infrastructure, would typically be served by ground water or imported surface water.

16. Districts' Waiver of Right to Petition

The Districts agree that if the Water Board approves this Administrative Civil Liability Order as specified herein, as part of the settlement, including attachments, the Districts will not petition the State Water Board or otherwise challenge this Order. The Districts understand that failure to comply with the July 1, 2015 SEP implementation schedule specified below, or the schedule as modified by the Executive Officer or the Water Board, will result in the Districts having to pay the suspended portion (\$4,550,000) of liability imposed by this Order, including interest earned thereon, to the State Water Board Waste Discharge Permit Fund, within 30 days of the relevant compliance date.

17. Notification of Interested Parties

The Water Board notified the Discharger and interested parties of public hearings scheduled for the Regional Board meetings on March 14, 2007, May 23 and 24, 2007, and November 29, 2007. During the public hearings conducted during these meetings, the Water Board heard and considered all comments related to the proposed Order.

18. Other Parties' Right to Petition

Any aggrieved person may petition the State Water Board to review the action in accordance with Water Code section 13320 and the State Water Board's regulations. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at [http://www.swrcb.ca.gov/water\\_laws/cawtrcde/wqpetition\\_instr.html](http://www.swrcb.ca.gov/water_laws/cawtrcde/wqpetition_instr.html) and will also be provided by the Lahontan Water Board upon request.

19. California Environmental Quality Act

This enforcement action is being taken by the Water Board to enforce provisions of the Water Code and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with California Code of Regulations, Title 14, section 15321.

**IT IS HEREBY ORDERED THAT:**

1. The Water Board imposes administrative civil liability against the Districts in the amount of **\$4,750,000**.
2. The Districts must provide payment in the amount of **\$200,000**, to the State Water Board's Waste Discharge Permit Fund (WDPF). This payment must be made **within 30 days** of receiving written notice from the Water Board that the State Water Board has not received any petitions for this Order, as well as the WDRs for the Lancaster WRP and Revised CDOs adopted prior to, or concurrently with, this Order, within the time provided in CWC section 13320 and that no judicial challenge has been made within the time provided in CWC section 13330.
3. The remaining **\$4,550,000** will be permanently suspended upon the Districts' compliance with the SEP implementation schedule as specified in this Order below.
  - a. The Districts will make five annual payments of **\$760,000** and a final payment of **\$750,000** to a trust account or other impoundment account. The trust account or other impoundment account must include the success criteria described in Finding No. 14 as a condition of payment of funds from the account. The details regarding establishing the account, maintaining the account and releasing funds from the account must be agreeable to the Water Board Executive Officer and conform to the State Water Resources Control Board's *Water Quality Enforcement Policy, 2002*. The annual payments are due and payable according to the following schedule:
    - i. July 1, 2008
    - ii. July 1, 2009
    - iii. July 1, 2010
    - iv. July 1, 2011
    - v. July 1, 2012
    - vi. July 1, 2013

The Districts must submit to the Water Board's South Lake Tahoe office, written documentation that the above-referenced payments have been made. The written documentation must be received at the Water Board office by **July 15<sup>th</sup> of each year referenced above.**

- b. The Water Board' Executive Officer and Districts' Chief Engineer and General Manager will meet and confer between **July 2009 and July 2011**, to discuss whether the Antelope Valley Recycled Water Project infrastructure is proceeding forward towards construction and completion of infrastructure improvements within the July 1, 2015 timeframe. If, at that time, the Water Board Executive Officer and the Districts' Chief Engineer and General Manager agree that the Antelope Valley Recycled Water Project is not expected to proceed, the Water Board's Executive Officer and the Districts' Chief Engineer and General Manager will subsequently meet and confer to agree upon an alternative supplemental environmental project(s) for recommendation to the Water Board and Districts' Boards for approval. Funds deposited into the trust account or other impoundment account per the schedule above will be devoted to the newly identified project(s). Only in the event no alternative supplemental environmental project(s) can be identified and agreed upon by the Water Board's Executive Officer and the Districts' Chief Engineer and General Manager, and approved by the Water Board and the Districts' Boards, the funds in the trust account or other impoundment account will be deposited into the WDPF or the authorized fund that CWC section 13350 directs payments to at that time, by January 15, 2014.
  - c. All SEP funds shall be distributed by **July 1, 2015**. Any funds remaining in the trust account or other impoundment account as of **July 1, 2015**, will be paid to the WDPF (or other fund that CWC section 13350 directs payment to at that time) by **August 1, 2015**. The July 1, 2015 date may be extended up to one year by the Water Board Executive Officer upon request of the Districts consistent with provision 8 of the Settlement Agreement. The Water Board may agree to additional extensions.
  - d. Any interest paid into the trust account or other impoundment account will be allocated to the SEP, or otherwise allocated to the WDPF as specified in paragraph nos. 3b or 3c, above.
4. This Order settles all claims and/or liability for any and all existing violations of the following Water Board Orders:
- a. District No. 14 – Waste Discharge Requirements, Water Board Order No. R6V-2002-053.
  - b. District No. 14 – Cease and Desist Order No. R6V-2004-0038.
  - c. District No. 20 – Waste Discharge Requirements, Water Board Order Nos. 6-89-31, 6-93-18, 6-00-57, 6-00-57A01, 6-00-57A02, and 6-00-57A03.
  - d. District No. 20 – Cease and Desist Order No. R6V-2004-0039