



**MINUTES**  
**REGULAR BOARD MEETING**

**Wednesday, February 12, 2020 12:00 P.M.**  
**Board Room, UWCD Headquarters**  
**1701 Lombard Street, Oxnard California**

Board of Directors  
Michael W. Mobley, President  
Bruce E. Dandy, Vice President  
Sheldon G. Berger, Secretary/Treasurer  
Patrick J. Kelley  
Lynn E. Maulhardt  
Edwin T. McFadden III  
Daniel C. Naumann

General Manager  
Mauricio E. Guardado, Jr.

Legal Counsel  
David D. Boyer

**Directors Present**

Michael W. Mobley, President  
Bruce E. Dandy, Vice President  
Sheldon G. Berger, Secretary/Treasurer  
Patrick J. Kelley, Director  
Lynn E. Maulhardt, Director  
Edwin T. McFadden III, Director  
Daniel C. Naumann, Director

**Staff Present**

Mauricio E. Guardado, General Manager  
David D. Boyer, Legal Counsel  
Anthony Emmert, Assistant General Manager  
Robert C. Siemak, Assistant General Manager  
Dr. Maryam Bral, Chief Engineer  
Joseph Jereb, Chief Financial Officer  
Josh Perez, Human Resource Manager  
Clayton Strahan, Chief Park Ranger  
John Carman, Chief Water Treatment Operator  
Dan Detmer, Supervising Hydrogeologist  
Tessa Lenz, Assistant Ecologist  
Zachary Plummer, IT Administrator  
Linda Purpus, Senior Environmental Scientist  
Robert Richardson, Senior Engineer  
Kris Sofley, Clerk of the Board

**Public Present**

Steve Gagnor, Raftelis  
Miles Hogan, City of Ventura  
Curtis Hopkins, Hopkins Groundwater Consultants  
Steve Howard, Rincon Consultants  
Thien Ng, City of Oxnard  
Susan Rungren, City of Ventura  
Eric Schanel, Rincon Consultants

Rick Simonson, HF&H Consultants

Dr. Rod Smith, Stratecon Consultants

Brian Wheeler, Atkinson, Andelson, Loya, Ruud & Romo

**1. FIRST OPEN SESSION 12:00 P.M.**

President Mobley opened the meeting and asked District's legal counsel to review the items to be discussed in Executive (Closed) Session.

Mr. Boyer stated that there was one real property matter, four cases of existing litigation and three cases of potential litigation to be discussed in Executive session.

**1.1 Public Comments  
Information Item**

President Mobley asked if there were any comments from the public. None were offered.

**1.2 EXECUTIVE (CLOSED) SESSION 12:05 P.M.**

President Mobley adjourned the meeting into Executive (Closed) Session at 12:05p.m.

**2. SECOND OPEN SESSION AND CALL TO ORDER 1:02 P.M.**

President Mobley called the second open session to order at 1:02p.m. Director Berger departed.

**2.1 Pledge of Allegiance**

President Mobley introduced UWCD's Hydrologist Dr. Bram Sercu, congratulating him and his wife on becoming U.S. citizens. He asked Dr. Sercu to lead the group in reciting the Pledge of Allegiance.

**2.2 Public Comment  
Information Item**

President Mobley asked if there were any public comments. Thien Ng from the City of Oxnard asked to address the Board. He welcomed United Water Conservation District, its Board members and staff to the City of Oxnard and offered his services if there was anything that the District needed.

**2.3 Approval of Agenda  
Motion**

Motion to approve the agenda, Director Dandy; Second, Director McFadden. Voice vote: six ayes (Dandy, Kelley, Maulhardt, McFadden, Naumann, Mobley); none opposed; one absent (Berger). Motion carries unanimously 6/0/1.

**2.4 Oral Report Regarding Executive (Closed) Session**

**Information Item**

District Legal Counsel David D. Boyer stated that in the case of UWCD v Albert Beserra, Ventura County Superior Court 56-2020-00539500-CU-MC-VTA, the Board had previously authorized the filing of a complaint.

**2.5 Board Communication**

**Information Item**

Director Maulhardt reported his attendance at the last two Board meetings.

Director Kelley reported attending his first Finance Committee meeting yesterday, and that he was planning on attending the AWA Breakfast on the 20<sup>th</sup> of February. He also said he was looking forward to meeting with constituents and to attending a seminar to refresh himself with the Brown Act.

Director McFadden reported attending the Fillmore and Piru Basins GSA Board meeting on January 16, the FPBGSA Ad Hoc committee meeting on January 27, the Fillmore irrigation Agency's meeting on January 22 and the District's Special Board meeting on February 4 and would be attending the FPBGSA Board meeting on February 20.

Director Dandy said that he attended the District's Executive Committee meeting on January 7, the Finance Committee meeting on January 14, the UWCD Board meeting on January 15 and the AWA Waterwise Breakfast on January 16. He also attended a Town Hall meeting hosted by Congressman Carbajal.

Director Naumann stated that he too attended the Executive Committee meeting on January 7 and the January 22 prep meeting for the Fox Canyon GMA Board meeting. He also met with the District's legal counsel and GM on January 8, attended a Town Hall meeting in Ojai with President Mobley regarding the Ventura lawsuit. He also attended a meeting of the Regional Defense Partnership for the 21<sup>st</sup> Century and learned that the group will be sponsoring an upcoming event that will include the Blue Angels.

President Mobley reported that he met with Mr. Guardado to prepare for today's Board meeting, that he participated in the Fox Canyon GMA Board meeting on January 22 and a Special Fox Canyon GMA meeting on February 14 and was expecting to participate in the Mound Basin GSA Board meeting on February 20.

**2.6 General Manager's Report**

**Information Item**

Mr. Guardado called the Board's attention to the District's recent award of a Certificate of Transparency from the California Special Districts Association, recognizing the District's efforts to provide the public with online access to financial, administrative, and policy documents as well as Board and Committee meeting agendas, minutes and presentations. Mr. Guardado said the certification

was a real feather in the District's cap and the next step was to earn a designation as a "District of Distinction" from the same organization.

Mr. Guardado reminded the Board that February 28 was the Water Sustainability Summit, a special event created to build awareness regarding Ventura County's sustainability challenges and offer hope in terms of collaborative projects that will bring additional water resources into the area. He added that attorneys shouldn't be making decisions about sustainability, that water managers should be working in partnership to obtain that goal. He said the District had identified several viable projects and the next step was implementation. He reported that the response has been very good and that the confirmed speakers would make for very informative and engaging discussions. He added that it is time to roll up our sleeves and move from engagement to action.

**2.7 Mid-Year Review – Mauricio E. Guardado, Jr.**

**Information Item**

Mr. Guardado presented an overview to the Board regarding the achievements and accomplishments from the past six months and demonstrated how those achievements align with the District's Strategic Planning objectives. (see presentation)

Director Naumann complemented Mr. Guardado and District staff for a job well done. President Mobley asked if there were any questions or other comments. None were offered.

**2.8 Public Hearing**

**Proposed Ordinance No. 24 - Consideration to Increase the Compensation of the Board of Directors**

**Motion**

The Board conducted a Public Hearing on the recommended adoption of an ordinance authorizing an increase in Directors' compensation from \$215.25 to \$226. per day. Director Dandy said the finance committee hadn't not reviewed the Ordinance. President Mobley asked if there were any public comments or questions. None were offered.

Motion to adopt Ordinance 24, Director Dandy; Second, Director Naumann. District's legal counsel reminded the Board that the Public Hearing would be continued to the March Board meeting, at which time the Board could make a motion to approve the adoption of Ordinance 24.

Director Maulhardt excused himself from the meeting at approximately 1:40 p.m.

- 3. CONSENT CALENDAR: All matters listed under the Consent Calendar are considered routine by the Board and will be enacted by one motion. There will be no separate discussion of these items unless a Board member pulls an item from the Calendar. Pulled items will be discussed and acted on separately by the Board.**

**Members of the public who want to comment on a Consent Calendar item should do so under Public Comments. (ROLL CALL VOTE REQUIRED)**

**A. Approval of Minutes**

**Motion**

Approval of the Minutes for the January 15, 2020 Board of Directors meeting and the February 4, 2020 Special Board meeting.

**B. Groundwater Basin Status Reports**

**Information Item**

Receive and file Monthly Hydrologic Conditions Report for the District.

**C. Second Quarter FY 2019-20 Financial Report and Budget Amendments and Investment Reports**

**Motion Item**

The Board will review the FY 2019-20 Second Quarter Financial Report for the period of July 1, 2019 through December 31, 2019, review the monthly investment report, and consider approving budget modifications as recommended.

**D. Appointment of Standing Committees and Representatives to Outside Organizations for 2020**

**Motion**

The President will appoint membership for the District's 2020 standing committees and appoint representatives and alternates to the following organizations: Association of Water Agencies of Ventura County Board of Directors; Association of Water Agencies of Ventura County Water Issues Committee; Fox Canyon Groundwater Management Agency; Ventura County Special Districts Association; Oxnard Chamber Water Committee; and ACWA JPIA Board of Directors.

President Mobley asked if there were any questions or comments from the Board on the Consent Calendar. None were offered. Motion to approve the Consent Calendar, Director McFadden; Second, Director Naumann. Roll call vote: five ayes (Dandy, Kelley, McFadden, Naumann, Mobley); none opposed; two absent (Berger, Maulhardt). Motion passes unanimously 5/0/2.

**4. MOTION ITEMS (By Department)**

**Administration Services – Anthony Emmert**

**4.1 PUBLIC HEARING – Public Hearing to Receive and Accept Information, Analysis and Public Comment regarding Setting of Zone and Extraction Charges for FY 2011-12 and FY 2012-13**

**Motion**

On October 1, 2019, the County of Santa Barbara Superior Court in City of San Buenaventura v. United Water Conservation District (Case No. VENC100401714 and 1414793) issued an Order on remittitur, remanding the matter to the District “for a new public hearing on the groundwater extraction charges the District

imposed pursuant to Water Code section 75500 et seq. for water years 2011-2012 and 2012-2013 (the Challenged Rates) to supplement the administrative record in this matter consistent with the decisions of the California Supreme Court and the Court of Appeal in this matter.”

This public hearing was held pursuant to the court’s Order. During the public hearing, the Board received and reviewed information in connection with and in support of the District’s FY 2011-12 and FY 2012-13 groundwater extraction charges, including a presentation by Dan Detmer –Technical Memorandum, Infiltration Potential of 2010 Precipitation Falling on Developed Lands and the Fate of Applied Groundwater within UWCD; a presentation by Rick Simonson of HF&H - FY 2011-12 and FY 2012-13 Cost of Service Analysis; and a presentation from Dr. Rodney Smith of Stratecon, Inc. - Analysis of the Structure of the District’s Proposed Groundwater Extraction Charges for FY 2011-12 and FY 2012-13; and also took questions from the Board and Public Comments and questions.

Both Mr. Guardado and Mr. Boyer also provided testimony during the Public Hearing and Brian Wheeler, a member of the District’s legal team, asked questions of the presenters to ascertain that the information was pertinent to the fiscal years being considered.

Mr. Boyer reported that at 10:42a.m., he received an email from Miles Hogan, assistant city attorney for the City of Ventura, with an attachment that he requested be added to the administrative record of the Public Hearing. Mr. Boyer cited the dates that the District had published notices in the Ventura County Star, noticing the public hearing, which provided well over a month of advance notice prior to today’s hearing. Mr. Boyer also stated that Greg Diaz, the City of Ventura’s attorney, had left voice mail messages and had spoken with Mr. Boyer, pleading cause for an extension of the hearing to provide the City with time to respond to the analysis and rate studies presented as part of the public hearing today.

Mr. Boyer said that the District was amenable to leaving the scheduled hearing open for ten additional days to provide the City of Ventura the time it needed to submit documents for review. He added that the Public Hearing would be concluded at the District’s March Board meeting.

President Mobley stated that he had a public speaker card from Steve Gagnon of Raftelis. Mr. Gagnon questioned the information presented in several of the slides from the HF&H and Stratecon presentations.

Motion to continue the Public Hearing to the March Board meeting, Director Naumann; Second, Director Dandy. Roll call vote: five ayes (Dandy, Kelley, McFadden, Naumann, Mobley); none opposed; two absent (Berger, Maulhardt). Motion carries and hearing is continued to March 11, 2020 UWCD Board meeting.

## **5. PRESENTATIONS AND MONTHLY STAFF REPORTS (By Department)**

### **Environmental Planning and Conservation Department – Anthony Emmert**

#### **5.1 Monthly Environmental Planning and Conservation Department Report Information Item**

Staff provided a powerpoint presentation (see attached) to the Board, reporting on environmental and regulatory issues of note to the District.

### **Groundwater Department – Maryam Bral**

#### **5.2 Monthly Groundwater Department Report Information Item**

Staff provided a powerpoint presentation (see attached) to the Board reporting on monthly Groundwater Department activities.

#### **5.3 Update on Groundwater Sustainability Agencies (GSAs) and Sustainable Groundwater Management Act (SGMA) Information Item**

Staff provided a powerpoint presentation (see attached) to the Board reporting on the monthly activities of the three local Groundwater Sustainability Agencies (Mound Basin GSA, Fillmore and Piru Basins GSA, and the Fox Canyon Groundwater Management Agency), and Santa Paula basin (adjudicated) Technical Advisory Committee.

### **Administration Services – Anthony Emmert**

#### **5.4 Monthly Administrative Services Department Report – Anthony Emmert Information Item**

Summary report submitted to the Board on various Administration Department activities.

### **Engineering Department – Maryam Bral**

#### **5.5 Monthly Engineering Department Report Information Item**

Summary report submitted to the Board on various water resources, planning efforts and department programs affecting the District.

### **Operations and Maintenance – Brian Collins**

#### **5.6 Monthly Operation and Maintenance Department Report Information Item**

Summary report submitted to the Board on monthly operations and maintenance of District facilities.

### **Park and Recreation Division – Clayton Strahan**

#### **5.7 Monthly Park and Recreation Department Report Information Item**

Summary report submitted to the Board on operations and items of note relative to the Lake Piru Recreation Area.

6. **BOARD OF DIRECTORS READING FILE**

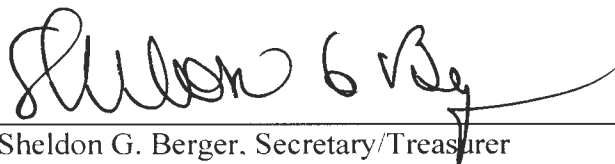
7. **FUTURE AGENDA ITEMS**

8. **ADJOURNMENT 3:35p.m.**

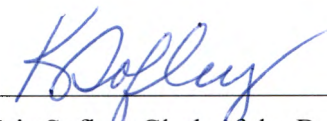
President Mobley adjourned the meeting at 3:35p.m. to the **Regular Board Meeting scheduled for Wednesday, March 11, 2020** or call of the President.

I certify that the above is a true and correct copy of the minutes of the Board of Directors meeting of February 12, 2020.

ATTEST: \_\_\_\_\_

  
Sheldon G. Berger, Secretary/Treasurer

ATTEST: \_\_\_\_\_

  
Kris Sofley, Clerk of the Board





Board of Directors  
Michael W. Mobley, President  
Bruce E. Dandy, Vice President  
Sheldon G. Berger, Secretary/Treasurer  
Patrick J. Kelley  
Lynn E. Maulhardt  
Edwin T. McFadden III

General Manager  
Mauricio E. Guardado, Jr.

Legal Counsel  
David D. Boyer

**ATTENDANCE SIGN-IN**  
**UWCD Board of Directors Meeting**  
**DATE: February 12, 2020**

*The signing or registering of your name on this sign-up form is not required but is voluntary. All persons may attend the meetings of the Board of Directors of United Water Conservation District without signing or registering their names on this form.*

NAME: Curtis Hopkins REPRESENTING: HGC/Ventura

NAME: Miles Hogan REPRESENTING: City of Ventura

NAME: Susan Rungren REPRESENTING: City of Ventura

NAME: Steve Gagnon REPRESENTING: Raftelis

NAME: Thien Ng REPRESENTING: Oxnard

NAME: Steve Howard REPRESENTING: Rincon Consultants

NAME: \_\_\_\_\_ REPRESENTING: \_\_\_\_\_

NAME: \_\_\_\_\_ REPRESENTING: \_\_\_\_\_

NAME: \_\_\_\_\_ REPRESENTING: \_\_\_\_\_

NAME: \_\_\_\_\_ REPRESENTING: \_\_\_\_\_

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NAME: \_\_\_\_\_ REPRESENTING: \_\_\_\_\_

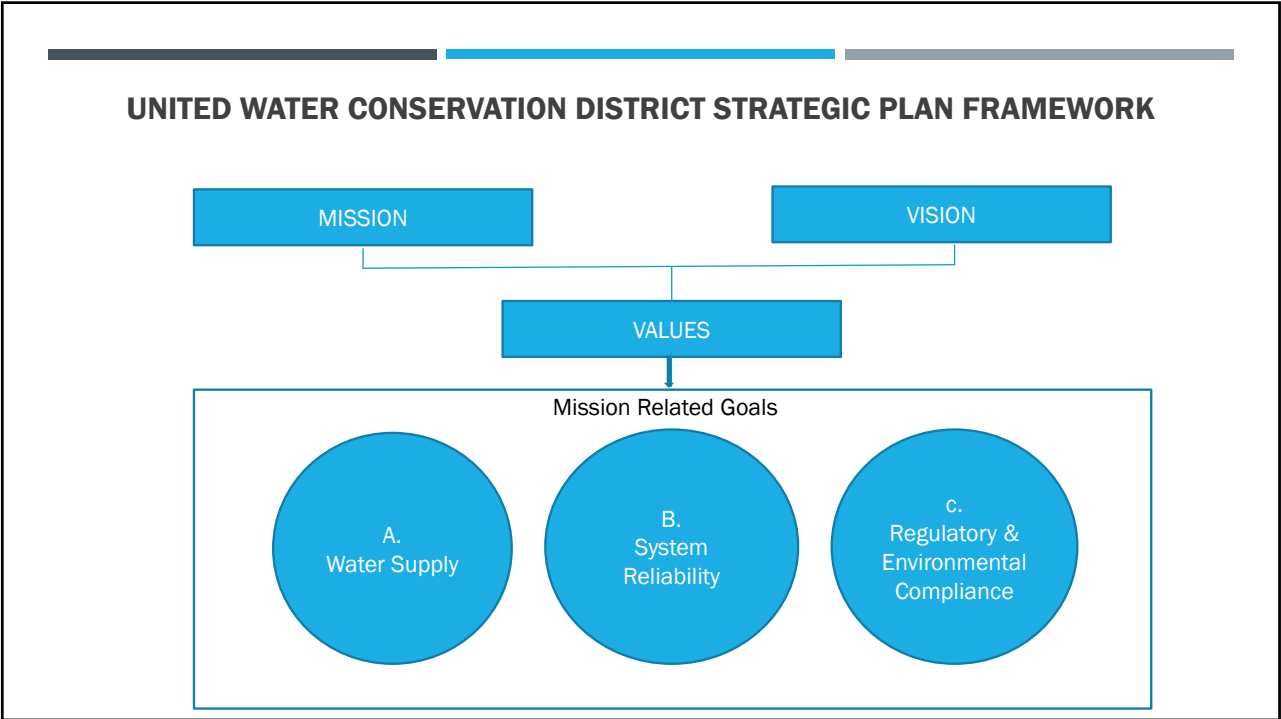
NAME: \_\_\_\_\_ REPRESENTING: \_\_\_\_\_

## 2.7 MID-YEAR REVIEW

ACHIEVEMENTS AND ACCOMPLISHMENTS ALIGNED WITH THE DISTRICT'S STRATEGIC PLANNING OBJECTIVES - JULY 2019 THROUGH DECEMBER 2019



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### B. System Reliability

- Completed 90% design for El Rio Iron and Manganese Treatment project
- Completed 10% design for Santa Felicia Dam Outlet Works and Spillway Safety Improvement project
- Completed hydraulic basis of design reports for Freeman Diversion Fish Passage alternatives – Vertical Slot, Hardened Ramp and Gated Notch
- Advanced the Pumping Trough Pipeline Metering project by fully integrating 17 metering stations into SCADA system, 15 utility easement deeds completed and 10 easement maps prepared for additional utility easement
- Prepared technical memo on Alternative Supply Assurance Pipeline (ASAP), quantifying increased yields of project

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### C. Regulatory and Environmental Compliance

- Completed NEPA environmental documents for the Santa Felicia Dam Outlet Works and Spillway Safety Improvement project
- Successfully filed CEQA Notice of Exemption for El Rio Iron and Manganese Treatment project
- Completed pacific lamprey passage improvements pilot system at Freeman Diversion to reduce risk of lamprey being ESA listed
- Conducted 2019 FERC annual and Division of Safety of Dam's semi-annual inspections of the Santa Felicia Dam

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#### D. Fiscal Responsibility

- Implemented new Supplemental Water Charge to fund future purchases of supplemental State Water
- Hired and promoted key staff (Controller, Senior Accountant, two new Accountants) to fully staff Finance Department
- Hired financial strategic planning consultant and initiated financial modeling
- District's Iron and Manganese Treatment project included in Watershed Coalition of Ventura County's DWR Prop1 IRWMP Implementation Round1 grant funding submission
- Aggressive campaign to attract filming and recreational visitors yielded 2019 revenue in excess of \$1 million for Lake Piru Recreation Area
- Awarded AWWA Outstanding Energy Efficiency Management award in recognition of the District's energy efficiency cost saving measures

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#### E. Regional Partnerships and Leadership

- Collaborating with Ventura County Water Agencies, launched the inaugural Water Sustainability Summit
- Awarded ACWA Rising Star Award for the District's leadership role in thwarting SB-1, which, by rolling back environmental protections unintendedly could have eliminated improved scientific research and best practices that many water agencies had spent a great deal of time and money on development in an effort to protect water
- Organized the Regional Optimization Plan working group to facilitate cooperation on projects that benefit and/or improve Ventura County's water supply
- Continue to provide staff expertise in hydrology, hydrogeology, groundwater modeling, accounting and administrative support services to Fox Canyon GMA, Fillmore and Piru Basins GSA, Mound Basin GSA, and Santa Paula Basin.

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### F. Communications and Community Outreach

- Sponsored AWA-VCFB Annual Water Supply Bus Tour, CoLAB VC's annual meeting, AWAVC Water Symposium, AWAVC Elected officials meeting and the Water Education Foundation's Ventura County Tour
- Provided tours of the District's facilities to GSA Directors, CIBCSO Directors and staff, PHWA Board, PVCWD staff, California Department of Fish & Wildlife staff, NMFS staff, Boys and Girls Club of Santa Clara Valley, Oxnard Chamber Water Issues committee, Farm Bureau, Multi-Generation Farmers group, University Club, farmers and students from elementary, middle and high schools and community colleges and universities.
- Secured articles on staff in various industry trade publications and newsletters
- Created videos and photographs for social media outreach demonstrating the diverse work of the District and including such operations as water releases, water diversions, silt removal, basin maintenance, fish tagging, water measurement and more

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### G. Organizational Effectiveness

- Developed and executed Memo of Understanding with SEIU Local 721 for new four year labor agreement
- Revised and issued new Employee Manual
- Expanded District staff by promoting eight staff members and hiring two assistant ecologist, two accountants, supervising instrument and electrical technician, safety and security program coordinator, senior accountant, administrative assistant II, administrative assistant I, park ranger cadet, field assistant
- Updated District's cyber security system, including new spam and malicious software prevention and filtration applications
- Established liaison for employment recruitment with four local universities and community colleges

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**UNITED WATER CONSERVATION DISTRICT**

**PUBLIC HEARING**

**FOR**

**SUPPLEMENTING THE ADMINISTRATIVE RECORD**

**2011-2012 WATER YEAR**

**2012-2013 WATER YEAR**

**FEBRUARY 12, 2020**

**AGENDA ITEM**

**FEBRUARY 12, 2020—AGENDA ITEM**  
**UNITED WATER CONSERVATION DISTRICT**  
**PUBLIC HEARING FOR**  
**SUPPLEMENTING ADMINISTRATIVE RECORD FOR**  
**WATER YEAR 2011-2012**  
**WATER YEAR 2012-2013**

**Board President:**

This is Agenda Item 4.1, the court ordered public hearing on remand for Water Years 2011-2012 and 2012-2013 for the purpose of supplementing the administrative record for each of those water years.

At this point I'll turn it over to the District's General Manager for further background and explanation.

Mr. Guardado?

**District GM**

Thank you President Mobley.

Section 74508 of the Water Code of the State of California authorizes a United Water Conservation District to levy and collect a groundwater charge for the production of water from the groundwater supplies within the District or within a zone or zones thereof in the manner prescribed in Part 9 of Division 21 of the Water Code of the State of California, commencing with Section 75500.

Pursuant to the above authority, on June 8, 2011, the District adopted Resolution Nos. 2011-08 through 2011-12, which, among other things, established zones and levied groundwater charges for Water Year 2011-2012. Similarly, on



June 13, 2012, the District adopted Resolution Nos. 2012-07 through 2012-11, which, among other things, established zones and levied groundwater charges for Water Year 2012-2013.

Thereafter the City of San Buenaventura filed lawsuits challenging these groundwater charges, contending that the charges violated either Article XII D (otherwise known as Proposition 218) or, in the alternative, Article XIII C (otherwise known as Proposition 26) of the California Constitution. The lawsuits were then consolidated and transferred to the Superior Court of Santa Barbara County, which ruled in the City's favor, concluding that the groundwater charges for Water Years 2011-2012 and 2012-2013 as imposed violated Proposition 218.

The Court of Appeal reversed the trial court's judgment, concluding that the pumping charges are not property-related charges or fees within the meaning of Proposition 218, and further concluding that the pumping charges are not taxes subject to the requirements of Proposition 26.

The California Supreme Court affirmed in part and reversed in part, concluding "that article XIII C of the California Constitution, as amended by Proposition 26, rather than article XIII D, supplies the proper framework for evaluating the constitutionality of the groundwater pumping charges at issue in the case." The Court ordered the matter remanded to the Court of Appeal "to consider whether the record sufficiently establishes that the District's rates for the 2011-2012 and the 2012-2013 water years bore a reasonable relationship to the burdens on or the benefits of its conservation activities. . . ." and instructed that "[i]n making this determination, [the Court of Appeal] may consider whether the parties should be afforded the opportunity to supplement the administrative record with evidence bearing on this question."

Upon remand the Court of Appeal concluded that it was "appropriate to afford the parties an opportunity to supplement the administrative records for the

2011-2012 and 2012-2013 water years with evidence bearing on the question of whether the District's rates charged for those years bore a reasonable relationship to the burdens on or the benefits of the District's conservation activities. The Court of Appeal remanded the matter to the trial court with instructions (1) to vacate its writs of mandate in the challenges to the 2011-2012 and 2012-2013 water years, and (2) remand the matter to the District to afford the parties an opportunity to supplement the administrative records for the 2011-2012 and 2012-2013 water years with evidence bearing on the issue of whether the District's rates for those years bore a reasonable relationship to the burdens on or the benefits of the District's conservation activities.

On October 1, 2019, the trial court issued an order vacating it previously issued writ of mandate and remanding the matter to the District for a new public hearing for the purpose of supplementing the administrative record for the 2011-2012 and 2012-2013 water years consistent with the decision of the Supreme Court and Court of Appeal. The court ordered that the public hearing on remand shall be held within 6 months of the court's October 1, 2019 Order.

The purpose of today's hearing is to comply with the trial court's Order.

I'll turn it over to the District's legal counsel to explain the process today.

### **District Legal Counsel**

We believe that the current record for the 2011-2012 and 2012-2013 Water Years establishes that the rates adopted for each of those water years qualifies as a nontax fee under Article XIII C (Proposition 26) of the California Constitution.

Nevertheless, we are asking that the Board supplement the administrative record for each water year with additional analysis based solely upon data existing at the time those rates were adopted.

The District published notice of the public hearing in the Ventura Star on December 30, 2019 and January 11, 2020. Copies of the notice and certification of its publication are before the Board and should be included in any supplemental administrative record.

We propose supplementing the administrative record with, among other items, a Technical Memorandum by Dan Detmer, and reports from HF&H and Stratecon.

All of these documents were provided to the City's attorney on the morning of February 7<sup>th</sup> and posted on the District's website that afternoon.

We are also submitting to the Board today the CV's for each of the presenters.

We will proceed first with a presentation from Dan Detmer and submission of his Technical Memorandum.

Then we will proceed with presentations from HF&H and Stratecon, first with the 2011-2012 Water Year and next with the 2012-2013 Water Year.

Next we will allow for public comment.

After that we will discuss the 2 resolutions that are before you.

We also have here today Brian Wheeler, a partner at my firm and lead counsel in the Ventura v. United litigation. He will be here to assist the Board where necessary in questioning any witness today.

### **General Manager**

We will now hear from Dan Detmer concerning the Technical Memorandum you have before you.

**Dan Detmer**

(Presentation re: Technical Memorandum)

**General Manager**

Does the Board have any questions for Mr. Detmer?

Brian, any questions

Next we will now hear from Rick Simonson from HF& H concerning the report they've prepared for the 2011-2012 and 2012-2013 Water Years.

**Rick Simonson**

(Presentation re: HF&H Report)

**General Manager**

Does the Board have any questions for Mr. Simonson?

Brian, any questions (make sure each witness confirms that he relied only on data existing at the time the rates were originally approved by the Board)?

Next, we will hear from Dr. Rodney Smith of Stratecon concerning the report prepared for the 2011-2012 and 2012-2013 Water Years.

**Rodney Smith**

(Presentation by Dr. Smith)

Does the Board have any questions for Dr. Smith?

Brian, any questions (make sure each witness confirms that he relied only on data existing at the time the rates were originally approved by the Board)?

**General Manager**

At this time we should open the matter up for public comments and submissions.

**Board President**

Does anyone, including any member of the public, want to offer any testimony at this time?

### **Comments from the Public**

(Any comment by the public, including Ventura, should be followed by the GM asking Brian Wheeler if he has any questions for the witness)

### **District Legal Counsel**

In summary, we are asking the Board to supplement the administrative record for Water Year 2011-2012 with the following documents and testimony:

1. Certification of publication of the notice of hearing in the Ventura Star;
2. Technical Memorandum by Dan Detmer;
3. Reports from HF&H and Stratecon concerning Water Year 2011-2012;
4. CVs for Dan Detmer, HF&H and Stratecon;
5. PowerPoints by Dan Detmer, HF&H and Stratecon;
6. Today's meeting agenda;
7. Minutes from today's meeting;
8. Transcript from today's hearing; and
9. Submission City of San Buenaventura (specifically describe).

We are also asking the Board to supplement the administrative record for Water Year 2012-2013 with the following documents and testimony:

1. Certification of publication of the notice of hearing in the Ventura Star;

2. Technical Memorandum by Dan Detmer;
3. Reports from HF&H and Stratecon concerning Water Year 2012-2013;
4. CVs for Dan Detmer, HF&H and Stratecon;
5. PowerPoints by Dan Detmer, HF&H and Stratecon;
6. Today's meeting agenda;
7. Minutes from today's meeting;
8. Transcript from today's hearing; and
9. Submission City of San Buenaventura (specifically describe).

**Board President**

At this time I declare this part of the hearing closed. May we hear from the General Manager regarding the resolutions we have before us.

**General Manager**

You have before you two resolutions—Resolution No.2020-01 and Resolution No. 2020-02 .

Resolution No. 2020-01 concerns Water Year 2011-2012. It directs that the administrative record in the challenge to that Water Year be supplemented with the documents and testimony just described by the District's General Counsel.

Similarly, Resolution No. 2020-02 concerns Water Year 2012-2013. It directs that the administrative record in the challenge to that Water Year be supplemented with the documents and testimony described by the District's General Counsel.

It is appropriate for the Board to consider, in an exercise of its discretion, the adoption of these two resolutions at this time.



**Board President**

I want to thank everyone for participating in today's hearing. I also note that the Board, as well as its staff, has received, heard, reviewed and considered all evidence, information, comments, responses, protests, objections and issues, including information received during today's hearing. The Board is fully informed on the facts and issues involved in making its decisions regarding supplementing the District's administrative records for Water Years 2011-2012 and 2012-2013.

And with those comments now made, let's proceed to consideration of the two motions before us. We will first consider the first of two resolutions. This one is Resolution 2020-01 and concerns supplementing the administrative record for Water Year 2011-2012.

If you make a motion to approve a resolution, please read the number and title of the resolution when you make your motion.

Do I hear a motion on Resolution No.2020-01?

**1<sup>st</sup> Director:**

I move that we adopt Resolution No. 2020-01 entitled a Resolution of the Board of Directors of United Water Conservation District Supplementing the Administrative Record on Groundwater Extraction Charges for Water Year 2011-2012.

**2<sup>nd</sup> Director:**

I second the motion

**Board President:**

Resolution No. 2020-01 has been moved and seconded for adoption.

Are there any questions or discussion by any member of the Board on the motion or resolution itself?

There being none, I call for a roll call vote.

**Clerk of the Board:**

(The Clerk will call the roll)

The vote was \_\_\_in favor, \_\_\_ absent, and \_\_\_opposed.

**Board President:**

The resolution is adopted and it is so ordered.

Do I hear a motion on the second resolution, Resolution No. 2020-02 ?

**1<sup>st</sup> Director:**

I move that we adopt Resolution No. 2020-02 entitled: a Resolution of the board of Directors of United Water Conservation District Supplementing the Administrative Record on Groundwater Extraction Charges for Water Year 2012-2013.

**2<sup>nd</sup> Director:**

I second the motion

**Board President:**

Resolution No. 2020-02 has been moved and seconded for adoption.



Are there any questions or discussion by any member of the Board on the motion or resolution itself?

There being none, I call for a roll call vote.

**Clerk of the Board:**

(The Clerk will call the roll)

The vote was \_\_\_\_in favor, \_\_\_\_ absent, and \_\_\_\_opposed.

**Board President:**

The resolution is adopted and it is so ordered.

Are there any further comments by the Board members?

Any further comments from anyone in the audience.

There being none, this item is now concluded. I thank everyone again for their attendance and cooperation.

Let's take a brief recess.



## 4.1 RATES

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## Technical Memorandum

Infiltration Potential of 2010 Precipitation Falling on  
Developed Lands and the Fate of Applied  
Groundwater within UWCD

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The 2010 Technical Memorandum relies on published land use mapping, soil infiltration capacities, runoff curve numbers and basin geologic setting to quantify the fate of rainfall falling on developed lands within the District boundaries.

3

These variables were used to determine how much precipitation soaked into the ground, was available for diversion and use at the Freeman Diversion, or ran off the land and was unavailable as a source of water supply.

4

A similar analysis was performed in order to estimate the volume of extracted groundwater that either returns to the groundwater flow system or exits the basins.

Reported groundwater production from wells within the District was used, along with land use mapping, soil infiltration, basin setting and runoff curve numbers.



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Recharge and runoff totals were summarized for two classes of developed land

- agricultural land
- municipal and industrial land



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District-wide Ag pumping in 2010 was  
117,283 acre-feet (AF) and  
30,038 AF was return flow (25.6%)

District-wide M&I pumping in 2010 was  
41,772 AF and  
5,763 AF was return flow (13.8%).

7

Rainfall on developed lands within the District in  
2010 resulted in infiltration of

- 51,675 AF on agricultural land and
- 16,580 AF in urban and industrial areas.

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The 2010 Technical Memorandum relies on hydrologic data from year 2010. These data were available in spring 2011.

2010 precipitation was representative of normal climatic conditions

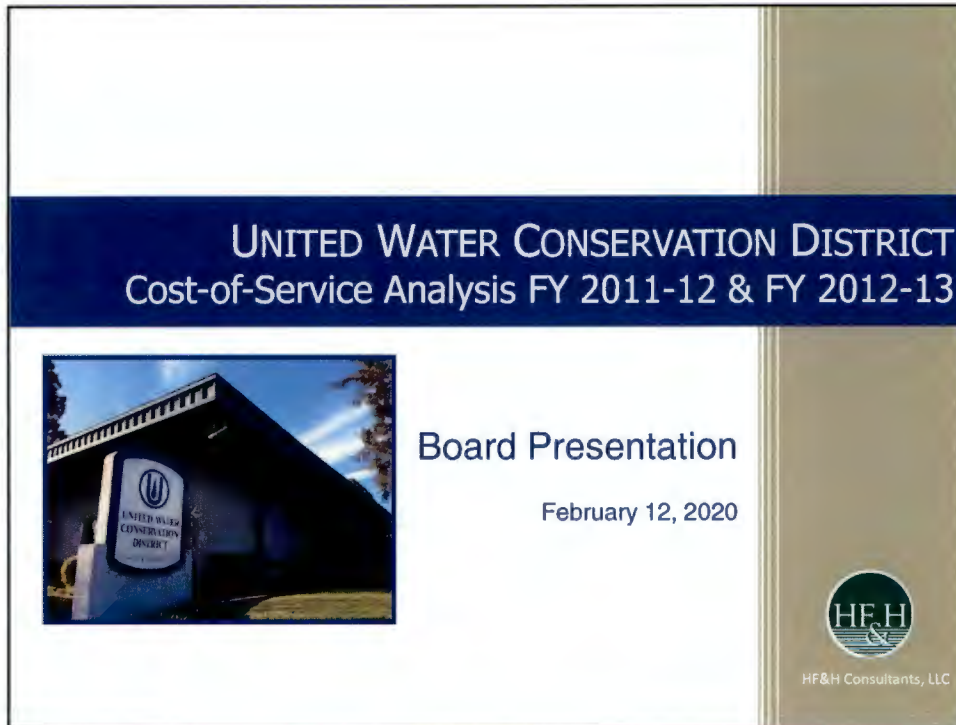
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The calculated differences in 2010 runoff and groundwater return flows between the agricultural and urban land use classes were utilized in the District's rate-setting process for the 2011/2012 and 2012/2013 fiscal years.

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United Water Conservation District Board Presentation

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## Presentation Outline

- Background
- Cost-of-service analysis
  - Purpose and analytical steps
  - Cost categories and classifications
  - Cost of service allocations
- Summary of results
  - Ag and M&I costs of service
  - Ratio of M&I to Ag costs

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1

United Water Conservation District Board Presentation

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## Background

- District Act specifies a range for setting groundwater extraction charges
  - Act recognizes that the District provides service to two classes of pumpers: municipal and industrial (M&I) and agricultural (Ag)
  - Act requires that M&I extraction charge must exceed Ag charge by at least 3 times but no more than 5 times
- District Act does not specify how to determine the differential

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United Water Conservation District Board Presentation

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## Background

- District has historically set M&I extraction charge at 3 times the Ag extraction charge (3 to 1 ratio)
- HF&H and District staff developed a cost-of-service methodology for confirming the differential beginning with FY 2013-14
- Results for FY 2011-12 and FY 2012-13 are being presented today

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3



## **Purpose of Cost-of-Service Analysis**

- Purpose of cost-of-service (COS) analysis
  - Allocate costs associated with providing service to Ag and M&I pumpers in Zones A & B
- Allocations are proportionate to the services each class receives
- The COS analysis determines the quantitative *difference* between Ag and M&I costs
  - The difference determines the ratio
- The COS analysis does not determine extraction charges for Zones A and B
  - Extraction charges are determined by District based on minimum 3 to 1 ratio



## **Standard Steps in COS Analysis**

1. Classify costs by services provided to pumpers
2. Determine unit costs for each service
  - Unit costs apply equally to Ag and M&I
3. Allocate the cost of service to each class based on each class' units of service

### **COS analysis relies on**

- Appropriate rate-making standards
- Best available data
- Reasonable assumptions




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Board Presentation

## Three Cost Categories

The cost categories correspond to the District's core services

	Cost Categories		
	Replenishment	Reliability	Regulatory Compliance
Services	Zone A/B management and administration	Facilities constructed to improve groundwater reliability (Santa Felicia and Freeman Diversion Dams)	Regulatory compliance for facilities that improve groundwater reliability
Costs - O&M	Administration, management, and overhead	Operating personnel for storage and diversion facilities	Studies for ESA compliance, Dam Safety
- Capital	Equipment used for management and administration	Storage and diversion facilities	Facilities that are needed to comply with regulation of reliability facilities

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## District Budget Related to Zones A and B

FY 2012-13

- Total District Expenses of \$21.3 million
  - \$13.7 million is related to Zone A/B
  - \$7.6 million is related to other activities

FY 2012-13	
Total District Expenditures	\$21,286,508
Less:	
State Water Fund Expenses	(\$1,099,602)
O/H Pipeline Fund Expenses	(\$3,666,478)
PV Pipeline Fund Expenses	(\$624,505)
PT Pipeline Fund Expenses	(\$1,197,207)
Recreation-related Costs	(\$1,028,051)
Subtotal Non-Zone A/B Expenses	(\$7,615,843)
Total Zone A/B Revenue Requirement	\$13,670,665

The logo for HF&H Consultants, LLC, featuring the letters 'H', 'F', and 'H' in a stylized, overlapping arrangement within a circular border.

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# HF&H Cost of Service Analysis FY 2011-12 and FY 2012-13

2020-02-12

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# Costs By Category

Zone A/B Costs	FY 2012-13
<b>Replenishment Costs</b>	
Personnel Costs	\$253,281
Program Costs	\$1,196,377
Overhead Allocation	\$150,392
Capital Equipment Costs	\$35,688
Debt Service	\$0
Transfer to Capital Reserves	\$106,816
<b>Subtotal - Replenishment Costs</b>	<b>\$1,742,555</b>
<b>Reliability Costs</b>	
Personnel Costs	\$960,717
Program Costs	\$447,900
Overhead Allocation	\$570,450
Capital Equipment Costs	\$173,461
Debt Service	\$2,016,115
Transfer to Capital Reserves	\$1,067,893
<b>Subtotal - Reliability Costs</b>	<b>\$5,236,537</b>
<b>Regulatory Compliance Costs</b>	
Personnel Costs	\$2,098,070
Program Costs	\$2,227,133
Overhead Allocation	\$1,245,783
Capital Equipment Costs	\$175,034
Debt Service	\$0
Transfer to Capital Reserves	\$945,553
<b>Subtotal - Regulatory Compliance Costs</b>	<b>\$6,691,573</b>
<b>Total</b>	<b>\$13,670,665</b>

**FY 2012-13**

- Replenishment costs
  - 13% of total Zone A/B costs
  - 68% of total is Program costs
- Reliability costs
  - 38% of total Zone A/B costs
  - 38% of total is Debt service
- Regulatory Compliance costs
  - 49% of total Zone A/B costs
  - 31% of total is Personnel costs
  - 33% of total is Program costs

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**Capital Projects – FY 2012-13 Budget**

**FY 2012-13**

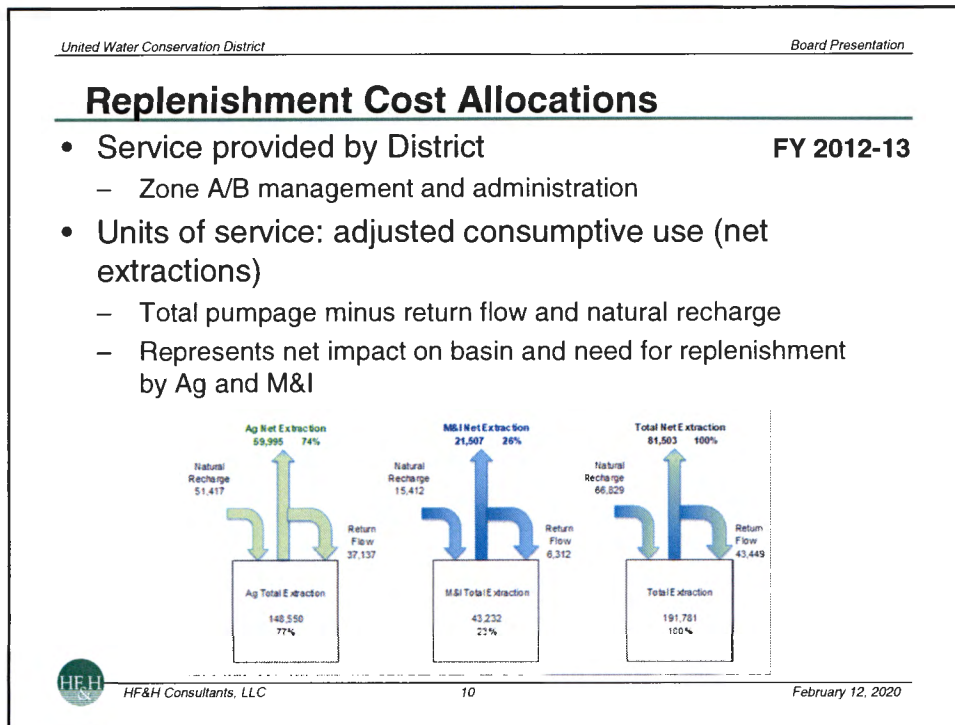
Zone A/Zone B Capital Projects			Replenishment	Reliability	Regulatory Compliance	Total
805	212	New Saticoy Shop Building		\$424,200		\$424,200
564	10	Ferro-Rose Recharge Project - Phase I		\$50,000		\$50,000
874	10	Replace SFD Intake Structure		\$86,000		\$86,000
875	10	SFD Tunnel Fish Release Pipe			\$155,000	\$155,000
879	10	SFD PMF Containment			\$6,000	\$6,000
880	421	Freeman Diversion Rehab			\$613,000	\$613,000
890	10	SFD Asphalt Repair		\$9,000		\$9,000
896	10	El Rio Spreading Valve Control	\$85,000			\$85,000
Total			\$85,000	\$569,200	\$774,000	\$1,428,200

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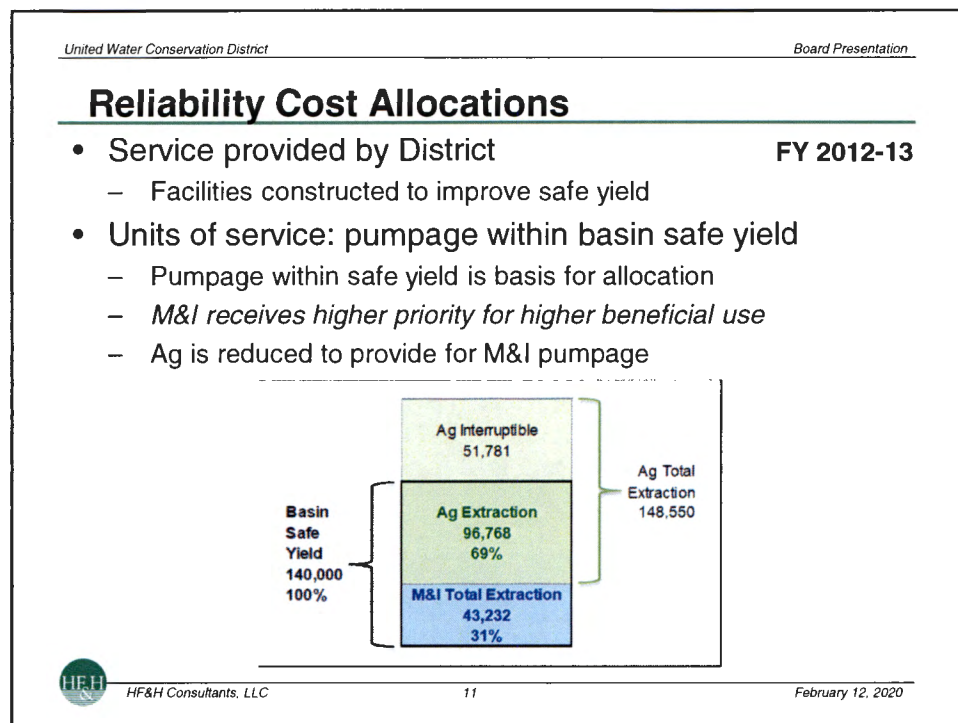
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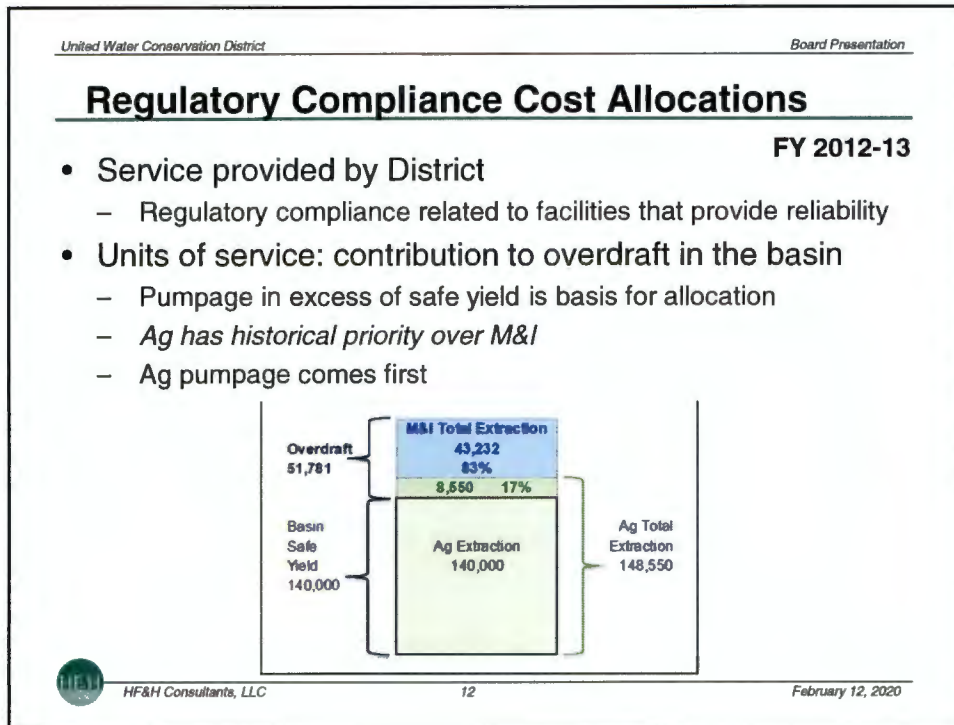


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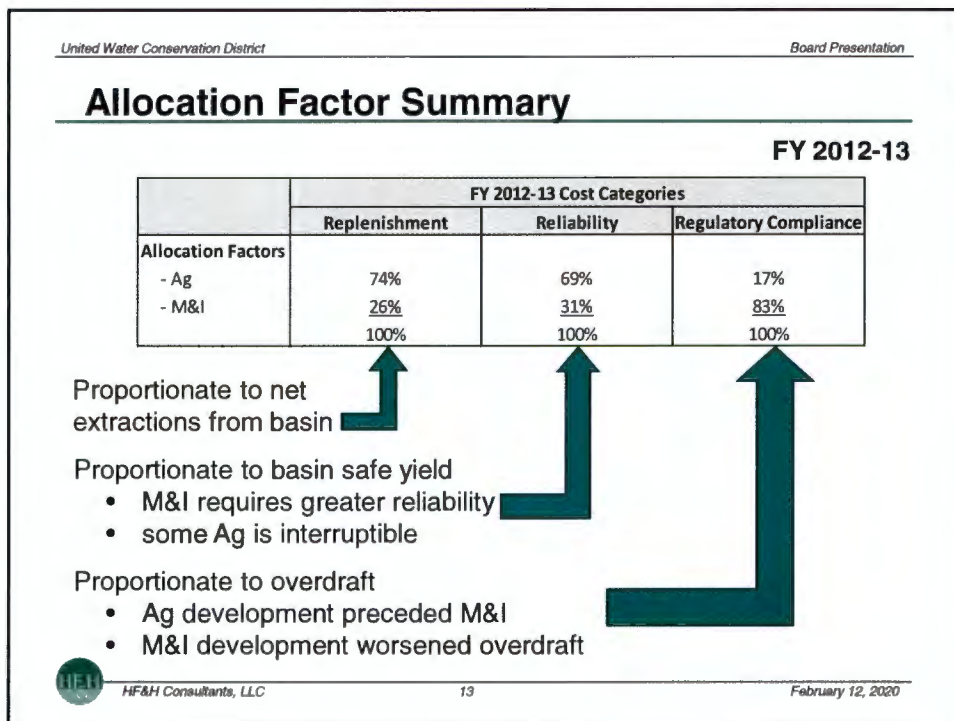


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# Replenishment Cost of Service (\$/AF)

FY 2012-13

## I. Replenishment Unit Costs

Replenishment costs	\$1,742,555
Adjusted consumptive use (AF)	81,503
Unit cost of service (\$/AF)	\$21.38

The same unit costs apply  
equally to Ag and M&I

	Total	Ag	M&I
<b>I. Replenishment Cost of Service</b>			
Unit cost of service (\$/AF)	\$21.38	\$21.38	\$21.38
Adjusted consumptive use (AF)	81,503	59,995	21,507
Cost-of-service allocation	\$1,742,555	\$1,282,719	\$459,836

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# Reliability Cost of Service

FY 2012-13

## II. Reliability Unit Costs

Reliability Costs	\$5,236,537
Pumpage within basin safe yield	140,000
Unit cost of service (\$/AF)	\$37.40

The same unit costs apply  
equally to Ag and M&I

	Total	Ag	M&I
<b>II. Reliability Cost of Service</b>			
Unit cost of service (\$/AF)	\$37.40	\$37.40	\$37.40
Pumpage within basin safe yield	140,000	96,768	43,232
Cost-of-service allocation	\$5,236,537	\$3,619,503	\$1,617,034

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United Water Conservation District Board Presentation

## Regulatory Compliance Cost of Service

FY 2012-13

**III. Regulatory Compliance Unit Costs**

Regulatory Compliance costs	\$6,691,573
Overdraft contribution (AF)	51,781
Unit cost of service (\$/AF)	\$129.23

The same unit costs apply  
equally to Ag and M&I

	Total	Ag	M&I
<b>III. Regulatory Compliance Cost of Service</b>			
Unit cost of service (\$/AF)	\$129.23	\$129.23	\$129.23
Overdraft contribution (AF)	51,781	8,550	43,232
Cost-of-service allocation	\$6,691,573	\$1,104,845	\$5,586,728

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United Water Conservation District Board Presentation

## Summary of COS Allocations and Composite Ratio

FY 2012-13

	Total	Ag	M&I
<b>IV. Total Cost of Service</b>			
Replenishment	\$1,742,555	\$1,282,719	\$459,836
Reliability	\$5,236,537	\$3,619,503	\$1,617,034
Regulatory Compliance	\$6,691,573	\$1,104,845	\$5,586,728
	\$13,670,665	\$6,007,067	\$7,663,598
Total Pumpage (AF)	191,781	148,550	43,232
Composite unit cost (\$/AF)		\$40.44	\$177.27
Ratio of M&I to Ag unit costs		1.00	4.38

- Ag is allocated majority of Replenishment and Reliability
  - Proportionate to its use of the basin safe yield
- M&I is allocated majority of Regulatory Compliance
  - Regulatory costs associated with M&I's impact of exacerbating overdraft conditions

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# HF&H Cost of Service Analysis FY 2011-12 and FY 2012-13

2020-02-12

United Water Conservation District
Board Presentation

## Summary of COS Allocations and Composite Ratio

### FY 2011-12

- Same methodology applied to FY 2011-12 using then-available cost budget, pumping, precipitation, and consumptive use data

	Total	Ag	M&I
<b>IV. Total Cost of Service</b>			
Replenishment	\$1,981,750	\$1,468,521	\$513,229
Reliability	\$4,635,820	\$3,199,906	\$1,435,913
Regulatory Compliance	\$6,708,386	\$1,200,081	\$5,508,305
	<b>\$13,325,956</b>	<b>\$5,868,509</b>	<b>\$7,457,447</b>
Total Pumpage (AF)	192,812	149,448	43,364
Composite unit cost (\$/AF)		\$39.27	\$171.97
Ratio of M&I to Ag unit costs		<b>1.00</b>	<b>4.38</b>

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Board Presentation

## Summary

- Methodology consistent with FY 2013-14 to FY 2019-20
- FY 2012-13 cost-of-service analysis confirms 3-to-1 ratio

Composite Unit Costs (\$/AF)	Ag	M&I	Ratio M&I:Ag
FY2011-12	\$39.27	\$171.97	4.38
FY2012-13	\$40.44	\$177.27	4.38
FY2013-14	\$56.51	\$178.43	3.16
FY2014-15	\$50.94	\$165.32	3.25
FY2015-16	\$54.44	\$171.74	3.15
FY2016-17	\$49.64	\$169.80	3.42
FY2017-18	\$55.38	\$227.80	4.11
FY2018-19	\$54.38	\$215.47	3.96
FY2019-20	\$76.60	\$300.41	3.92
<b>Average</b>	<b>\$53.07</b>	<b>\$197.58</b>	<b>3.75</b>

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Board Presentation


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Questions?

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February 12, 2020



STRATECON  
INC.

Rodney T. Smith, Ph.D. President

## Reasonable Ratio of M&I to AG Groundwater Extraction Charges

United Water Conservation District  
Oxnard, CA  
February 12, 2020

1

### Statement of Question

- Develop a quantitative method to determine a reasonable ratio of groundwater extraction charges Municipal & Industrial (“non-agricultural”) water to agricultural (“AG”) water
  - ❑ Focus on the differential hydrological impact of M&I and AG groundwater usage and land use on the eight inter-connected basins within United
  - ❑ How differential hydrological impact creates a need for replenishment projects and activities from United
  - ❑ How the rate structure should reflect these differences

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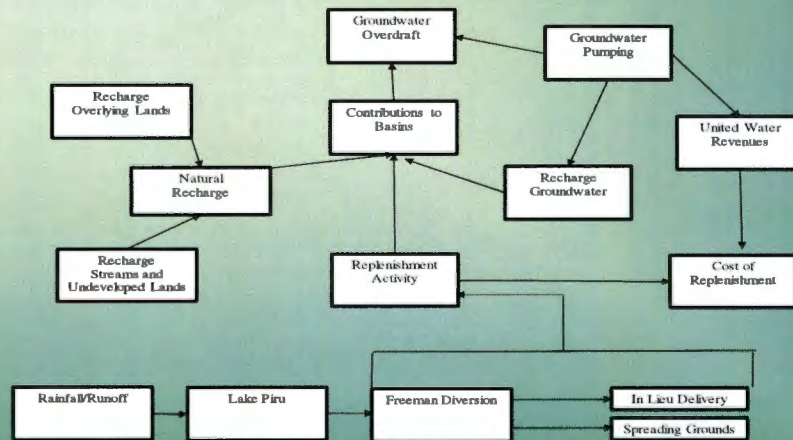
## Economic Principles of Rate Structure

3

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## United Water's Objectives and Sources of Revenues and Costs

United Water's Objective and Sources of Revenues and Costs



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### Principle 1: Components of Fee for Water User Class

- $\text{Fee} = \text{Variable Cost Component} + \text{Fixed Cost Component}$
- **Variable Cost Component:** replenishment costs that vary with the volume of replenishment projects and activities (estimated @ 10% of total replenishment costs)
- **Fixed Cost Component:** replenishment costs that do not vary with the volume of replenishment projects and activities (estimated @ 90% of total replenishment costs)

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### Principle 2: Variable Cost Component Based on Impact of Pumping on Overdraft

- **Impact of pumping on overdraft:** pumping less groundwater reuse
  - AG Variable Cost Component: 74.2% of variable cost
  - M&I Variable Cost Component: 86.2% of variable cost

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### Principle 3: Fixed Cost Component based on apportionment rules

- Rule 1: apportion fixed cost according to relative demands water user class places on United for replenishment projects and activities
  - ❑ Share based on groundwater pumping adjusted for reuse
- Rule 2: credit water user class based on amount of differential rainfall and runoff on overlying lands relative to districtwide average
  - ❑ Differential rainfall and runoff per acre: AG (0.09 AF/acre); M&I (-0.16 AF/acre) adjusted by portion of recharge that benefits the inter-connected basins
  - ❑ Annual cost of replenishment projects and activities

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### Consistent With Cost-of-Service, Rate-Making Principles

- United Water undertakes projects to mitigate the effects of groundwater overdraft
- For a parcel, demand for United Water's services reflect water use and land use
- Stratecon's method
  - ❑ United Water's variable cost: comparable to commodity charge
  - ❑ United Water's fixed cost: comparable to demand charge

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## United Water's Cost of Replenishment Projects and Activities

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## United Water Projects to Address Groundwater Overdraft

- Ferro/Rose (retirement of groundwater allocation)
  - ❑ annual cost of replenishment activity: \$1,228 per acre-foot (firm replenishment)
- Fox Canyon Groundwater Management Agency surcharge to bring pumping to safe yield
  - ❑ \$1,150/AF for excess pumping of more than 100 acre feet per year

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## Reasonable Ratio for Groundwater Extraction Charges

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## Assumptions

- Groundwater Revenue Requirement (including in-lieu): \$7,901,146
- Groundwater pumping and in-lieu: agricultural (142,545 acre-feet) and municipal & industrial (44,896 acre feet)
- Hydrologic Conditions
  - ❑ Reuse of groundwater: agricultural (25.8%) and municipal & industrial (13.8%)
  - ❑ Overlying recharge for lands: agricultural (0.65 acre-feet per acre) and municipal & industrial (0.40 acre-feet per acre)
- Acreage: Agricultural (80,078 acres) and Municipal & Industrial (41,772 acres)

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**United Water's Groundwater Extraction Charges under  
Alternative Assumptions for Proportion of Rainfall/Runoff  
Beneficially Recharging Basins**

<i>Proportion of Rainfall/Runoff Beneficially Recharging Basins</i>	<i>Non-Agricultural Groundwater Extraction Charge</i>	<i>Agricultural Groundwater Extraction Charge</i>	<i>Ratio</i>
35%	\$110.40	\$20.66	5.3
50%	\$137.51	\$12.12	11.4
75%	\$163.10	\$4.06	40.2

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**Conclusion**

- A ratio of at least 3.0 for M&I to AG groundwater extraction charges reasonably reflects the quantitative differences between the hydrological impacts of groundwater use and land use by the different groundwater user classes on United Water's replenishment obligation

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STRATECON  
INC.

Rodney T. Smith, Ph.D. President

## Reasonable Ratio of M&I to AG Groundwater Extraction Charges

United Water Conservation District  
Oxnard, CA  
February 12, 2020

1

### Statement of Question

- Develop a quantitative method to determine a reasonable ratio of groundwater extraction charges Municipal & Industrial (“non-agricultural”) water to agricultural (“AG”) water
  - ❑ Focus on the differential hydrological impact of M&I and AG groundwater usage and land use on the eight inter-connected basins within United
  - ❑ How differential hydrological impact creates a need for replenishment projects and activities from United
  - ❑ How the rate structure should reflect these differences

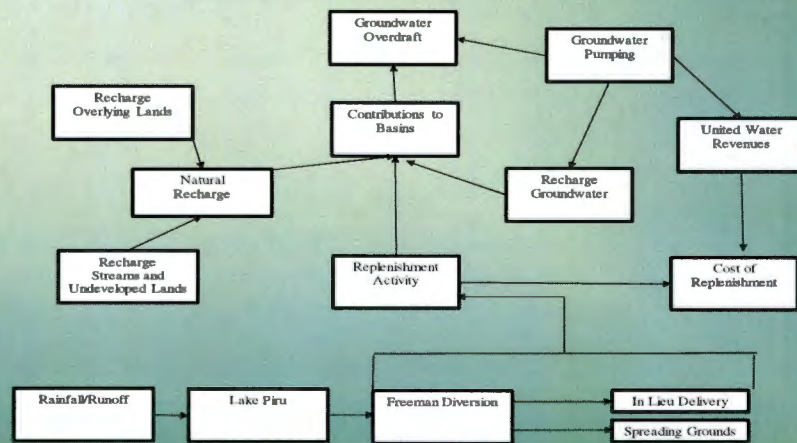
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## Economic Principles of Rate Structure

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## United Water's Objectives and Sources of Revenues and Costs

United Water's Objective and Sources of Revenues and Costs



4

### Principle 1: Components of Fee for Water User Class

- $\text{Fee} = \text{Variable Cost Component} + \text{Fixed Cost Component}$
- Variable Cost Component: replenishment costs that vary with the volume of replenishment projects and activities (estimated @ 10% of total replenishment costs)
- Fixed Cost Component: replenishment costs that do not vary with the volume of replenishment projects and activities (estimated @ 90% of total replenishment costs)

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### Principle 2: Variable Cost Component Based on Impact of Pumping on Overdraft

- Impact of pumping on overdraft: pumping less groundwater reuse
  - AG Variable Cost Component: 74.2% of variable cost
  - M&I Variable Cost Component: 86.2% of variable cost

6

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### Principle 3: Fixed Cost Component based on apportionment rules

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  - ❑ Share based on groundwater pumping adjusted for reuse
- Rule 2: credit water user class based on amount of differential rainfall and runoff on overlying lands relative to districtwide average
  - ❑ Differential rainfall and runoff per acre: AG (0.09 AF/acre); M&I (-0.16 AF/acre) adjusted by portion of recharge that benefits the inter-connected basins
  - ❑ Annual cost of replenishment projects and activities

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### Consistent With Cost-of-Service, Rate-Making Principles

- United Water undertakes projects to mitigate the effects of groundwater overdraft
- For a parcel, demand for United Water's services reflect water use and land use
- Stratecon's method
  - ❑ United Water's variable cost: comparable to commodity charge
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9

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- Ferro/Rose (retirement of groundwater allocation)
  - ❑ annual cost of replenishment activity: \$1,252 per acre-foot (firm replenishment)
- Fox Canyon Groundwater Management Agency surcharge to bring pumping to safe yield
  - ❑ \$1,150/AF for excess pumping of more than 100 acre feet per year

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## Reasonable Ratio for Groundwater Extraction Charges

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## Assumptions

- Groundwater Revenue Requirement (including in-lieu): \$10,692,616
- Groundwater pumping and in-lieu: agricultural (143,300 acre-feet) and municipal & industrial (41,899 acre feet)
- Hydrologic Conditions
  - ❑ Reuse of groundwater: agricultural (25.8%) and municipal & industrial (13.8%)
  - ❑ Overlying recharge for lands: agricultural (0.65 acre-feet per acre) and municipal & industrial (0.40 acre-feet per acre)
- Acreage: Agricultural (80,078 acres) and Municipal & Industrial (41,772 acres)

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### United Water's Groundwater Extraction Charges under Alternative Assumptions for Proportion of Rainfall/Runoff Beneficially Recharging Basins

<i>Proportion of Rainfall/Runoff Beneficially Recharging Basins</i>	<i>Non-Agricultural Groundwater Extraction Charge</i>	<i>Agricultural Groundwater Extraction Charge</i>	<i>Ratio</i>
35%	\$133.06	\$35.71	3.7
50%	\$162.35	\$27.15	6.0
75%	\$211.18	\$12.87	16.4

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### Conclusion

- A ratio of at least 3.0 for M&I to AG groundwater extraction charges reasonably reflects the quantitative differences between the hydrological impacts of groundwater use and land use by the different groundwater user classes on United Water's replenishment obligation

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WHATLEY, PC

Michael G. Colantuono  
(530) 432-7359  
MColantuono@chwlaw.us

Our File No. 52008.0004

February 12, 2020

**BY HAND DELIVERY AND EMAIL**

President Mobley and Members of the  
Board of Directors  
United Water Conservation District  
106 North Eighth Street  
Santa Paula, CA 93060-2710

**Re: Supplemental Material for Records of the District's Adoption of  
Groundwater Extraction Charges for Fiscal Years 2011–2012 and 2012–  
2013**

Dear President Mobley and Members of the Board of Directors:

**INTRODUCTION.** I write on behalf of the City of San Buenaventura (“City”) and its water utility, Ventura Water, regarding United Water Conservation District’s (“UWCD” or the “District”) public hearing to supplement the administrative records in *City of San Buenaventura v. United Water Conservation District et al.*, Santa Barbara Superior Court, Case Nos. VENCI00401714 and 1414793. As you know, Judge Anderle remanded this action to the District to conduct a hearing at which all parties and interested persons could supplement the administrative records relating to the groundwater extraction charges the District levied in Zones A and B in fiscal years (FY) 2011–2012 and 2012–2013.

We would first like to thank District staff for recommending your Board hold open the administrative records in issue for 10 days, that is, until February 24, 2020, to allow the City and other pumpers within the District to provide meaningful comments on the technical materials included in the agenda packet for the February 12, 2020 public hearing. Those materials include a 61-page Technical Memorandum dated November 2019 prepared by UWCD staff; two “Cost-of-Service Analyses” from HF&F Consultants dated January 3, 2020; and two analyses from Stratecon dated January 30,



2020. As you know, these materials were not made available for public review or comment until Friday, February 7, 2020. Because the City has only had five days to review these materials, it will provide those comments it has now, but appreciates staff's recommendation that you allow all pumpers the 10 days to review that your Board has consistently provided in the past eight years and consistently with UWCD's principal act and the common-law fair hearing requirement. Accordingly, the City intends to provide more meaningful, and final, responses to the materials the District has prepared to supplement the administrative records by February 24, 2020 and requests those materials be included in the supplemental administrative records in these cases.

As the City has explained since at least FY 2011–2012, the District imposes charges that are not proportionate to the cost of serving the City. It contends the District's persistent failure to remedy the problems the City has identified in previous protest letters ignores our Constitution, statutes, and common law. The California Supreme Court's finding in these cases that Proposition 218 does not, but Proposition 26 does, apply to the charges at issue does not change the City's position. (*City of San Buenaventura v. United Water Conservation District et al.* (2017) 3 Cal.5th 1191.) The Supreme Court remanded to the Court of Appeal to consider whether the charges violate the requirement that "the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity." (*Id.* at p. 1198, citing Cal. Const., art. XIII C, § 1, subd. (e).) The administrative records in these cases and the materials UWCD proposes to add to them do not meet the District's burden under Proposition 26 to demonstrate the groundwater extraction charges are allocated in a manner that bears a fair or reasonable relationship to each payor's burdens on, or benefits received from, the governmental activity. This is, of course, because the District adheres to a 1965 statute passed well before the 2010 adoption of Proposition 26 requiring at least a three to one ratio of the fees municipal and industrial users of groundwater (M&I) pay to those paid by agricultural users. Your consultants cannot identify a plausible post-hoc rationalization of a 1965 political bargain that did not anticipate Proposition 26's demands.

This letter, the accompanying analyses by Hopkins Groundwater Consultants and Raftelis Financial Consultants, as well as the letters the City submitted in the previous eight annual rate-making hearings explain why the FY 2011–2012 and 2012–2013 rates do not comply with law. The City also incorporates the briefing and arguments made before the California Supreme Court and the Court of Appeal.

Notably, the materials with which the District intends to supplement the records speak only to one of the grounds on which the rates violate law — namely, the 3:1 ratio of charges on M&I uses to agricultural uses. They do not purport to justify the violations of Proposition 26, various statutes, and the common law caused by the District's misallocation of groundwater charge revenue in FY 2011–2012 and 2012–2013.

**SUMMARY OF CITY'S SUBSTANTIVE POSITION.** As discussed below, and as the City has expressed in previous protest letters, the District's FY 2011–2012 and 2012–2013 charges:

- compel the City to pay for services from which it does not benefit and which are not directly related, or reasonably proportionate, to its benefits from, or the burden it imposes on, the District's groundwater management services;
- impose a 3:1 ratio of M&I to agricultural water rates based on erroneous calculations and implausible assumptions;
- are misallocated such that the City subsidizes UWCD's costs to benefit other users; and
- are based on a budget and other record materials which are inadequate to bear the District's burden to justify its rates.

Accordingly, the FY 2011–2012 and 2012–2013 charges violate Proposition 26. They also violate Proposition 13, Government Code Section 54999.7, and the common law of rate-making for these same reasons. For the reasons detailed below, the City respectfully requests the District refrain from adopting the draft resolutions submitted for the February 12, 2020 public hearing because their findings concerning legal compliance are erroneous.

**THE RATES REFLECT UNREASONABLE ASSUMPTIONS.** The District purports to cost-justify its FY 2011–2012 and 2012–2013 charges eight and seven years after-the-fact based on new reports of HF&H Consultants and Stratecon, Inc. HF&H and Stratecon relied not only on their reports prepared for the last six years, but also the District's 2019 Technical Memorandum. To the extent the City objected to these earlier reports previously, we incorporate those comments and objections here. Should you need copies of any of these earlier comments, please let me know and I will be happy to

provide them. However, in both cases, the Board should dismiss the HF&H and Stratecon reports as irrelevant because they rely on untenable assumptions disconnected from the actual evidence of groundwater use and recharge within the District and cost-of-service principles as discussed below.

**HF&H Consultants' Report.** HF&H Consultants provided two cost of service reports, both dated January 3, 2020. HF&H's Cost of Service Analysis persists in errors the City identified in each of the last six years by applying the wrong law and relying on erroneous and unsupported assumptions. The City therefore incorporates here the objections it detailed in previous years' letters. (See City Attorney and Ventura Water General Manager Letters dated June 11, 2019; May 22, 2018 Budget Workshop Exhs. U240-U241, U277-U278, U283- U350-U351, U372, U375, U446-U447, U491-U492, U541-U542, and U577.)

HF&H begins by identifying UWCD's statutory mandate to charge agricultural pumpers between one-fifth and one-third the amount it charges M&I under Water Code section 75594. (HF&H FY 2011–12 Cost of Service Analysis, pp. 1–2.)<sup>1</sup> This suggests HF&H's purpose is to provide a post-hoc rationalization for this statute's cost preference rather than to account for costs unburdened by an unconstitutional statute.

Like earlier analyses, HF&H also applies the wrong legal standard. It states the legal standard is whether rate-making is "arbitrary, capricious, or discriminatory." (HF&H FY 2011–12 Cost of Service Analysis, p. 2.) Under California's Constitution, however, UWCD bears the burden to demonstrate that its rates are "not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity." (Cal. Const., art. XIII C, § 1, subd. (e); *Sinclair Paint Co. v. State Board of Equalization* (1997) 15 Cal.4th 866.) Similarly, HF&H does not attempt to justify the difference in rates between Zone A charges and charges in Zone B, conflating the two such that its report cannot meet the District's burden. (HF&H FY 2011–12 Cost of Service Analysis, p. 3.)

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<sup>1</sup> HF&H's analysis of the FY 2011–2012 charges is nearly identical to its analysis of the FY 2012–2013 charges, but for some differences in the District's budget and groundwater use. For ease of reference, I cite only the FY 2011–2012 analysis, though each citation applies equally to both unless otherwise stated.

HF&H's Cost of Service Analysis contains a number of questionable assumptions. First, HF&H allocates a greater share of the reliability component to M&I than to agriculture, assuming that agricultural groundwater use is interruptible. (HF&H FY 2011–12 Cost of Service Analysis, pp. 4, 10–11.) This assumption, however, is unsupported by the empirical evidence in the analysis itself, which shows average agricultural pumping exceeded the basins' safe yield in nearly every year shown and was greatest in drought years. (*Id.* at p. 12 ["Ag's pumpage currently exceeds the basin safe yield...."]; *see id.* at Figures 5, 6, 8 and 9 [showing average agricultural extraction of 149,448 acre-feet compared to basin safe yield of 140,000 acre-feet].) In addition, the association between safe yield and reliability is incorrect. (*Id.* at p. 4 ["Reliability costs are the costs associated with the District's storage and diversion facilities.... These facilities helped firm up the District-wide safe yield and enable the District to manage the impacts of meeting the higher reliability needs of M&I water users."].) Safe yield is a characteristic of a basin, while reliability refers to efforts taken to secure additional supplies for use in times of scarcity. Put differently, if safe yield is assumed to be a stable number (though it may vary with hydrological conditions), and use is restricted to safe yields, no reliability services are needed.

Finally, the claim that storage and diversion facilities, e.g., Santa Felicia Dam and Freeman Diversion Dam, are needed for urban development is false for three reasons. First, when land converts from agricultural to urban use, water demand falls. Data from the 2019 Technical Memorandum supports this point as discussed below. Second, it is simply ahistorical to contend all agricultural use preceded M&I. (*Id.* at p. 12.) The City of Ventura was incorporated in 1866 and was preceded by the Mission San Buenaventura, established in 1782 and thus domestic use of groundwater predates the arrival of significant agriculture in the Santa Clara River valley. Further, when land is developed, the land use authority typically takes title to the groundwater rights that previously served the land in agricultural use and will serve it in M&I use. Thus, the City's rights are no more recent nor of lesser legal status than farmers' rights. Third and finally, this assumption conflicts with the District's own 2019 Technical Memorandum, which reports that "Freeman Diversion surface water deliveries for irrigation totaled 17,462 acre-feet in the 2010 calendar year." (2019 Tech. Memo., p. 6.) That is, your own Technical Memorandum acknowledges that the Freeman Diversion Dam delivers water to farmers, not cities. HF&H accordingly errs to assign all overdraft and all capital maintenance costs of dams — regulatory and otherwise — to M&I uses is plainly unreasonable.

Second, HF&H attributes these “reliability costs,” previously characterized as costs to remediate overdraft, to M&I because agriculture is subject to interruptions in service. “Absent these facilities, M&I reliability would be subject to the same interruptions that agriculture is exposed to and which agriculture is in a far better position to tolerate through land fallowing.” (HF&H FY 2011–12 Cost of Service Analysis, p. 4.) However, this ignores the District’s own evidence. Both the FCGMA, through its Emergency Ordinance – E, and the State, through the State Water Resources Control Board’s Emergency Drought Regulations, have required M&I to reduce water use or face penalties in times of drought. In contrast, neither FCGMA nor the State has required reductions of groundwater use by agriculture. Indeed, the District itself does not have statutory authority to limit agricultural groundwater use during drought years. It would take an adjudication to do so, which the District has not attempted other than for the Santa Paula Basin. In addition, the historical pumpage information in Figure 5 of the 2019 Technical Memorandum demonstrates that agricultural use **increases** during times of drought and **decreases** during wet years. Comparing the data in Figure 5 to those water years involving high or low precipitation statewide,<sup>2</sup> agricultural pumping was less than average in 2003, 2005, and 2006. Of these, 2005 and 2006 were wet years, demonstrating that agricultural use of groundwater decreases when it rains and fields are wet, not when there is drought. Similarly, agriculture pumped more than average amounts of groundwater in 2001, 2002, 2007, 2008, and 2009. All were drought years. The District’s 2019 Technical Memorandum acknowledges this fact: “[T]he amount of annual precipitation has a marked impact on the quantity of groundwater pumped for agricultural irrigation and a much lesser influence on M&I pumping.” (2019 Tech. Memo., p. 12.) The notion that agricultural use is limited in times of drought and should therefore bear less proportionate cost for less reliable service is a fiction. The facts demonstrate that it is inappropriate to assign adjusted reliability costs to M&I. This contradicts HF&H’s standard of utilizing assumptions supported by the facts: “Capricious rates contain data and assumptions for which there is no factual basis.” (HF&H FY 2011–12 Cost of Service Analysis, p. 2.)

Third, HF&H assigns all overdraft to M&I ignoring history, and without record support, to claim that all agricultural groundwater use preceded all M&I groundwater

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<sup>2</sup> Cal. Dept. of Water Resources, California’s Most Significant Droughts: Comparing Historical and Recent Conditions, Feb. 2015,  
[https://water.ca.gov/LegacyFiles/waterconditions/docs/California\\_Significant\\_Droughts\\_2015\\_small.pdf](https://water.ca.gov/LegacyFiles/waterconditions/docs/California_Significant_Droughts_2015_small.pdf)  
(last visited Feb. 10, 2020).

use, which the City has rebutted above and in the past — indeed, M&I use decreases water use per acre of land used and not all agricultural use predated all M&I use. HF&H seeks to justify rates to favor agriculture notwithstanding facts and reason: “As the predecessor pumper to M&I, Ag is given preference to pumping the safe yield. Ag’s pumpage currently exceeds the basin safe yield, which means that all of the M&I pumpage contributes to overdraft.” (HF&H FY 2011–12 Cost of Service Analysis, p. 12.) This mistakes history, water rights law, and logic. It is a naked policy preference that statute once required but the Constitution now forbids. Based on total pumpage, however, M&I’s allocation of overdraft mitigation costs would be much less. (See Raftelis Review of UWCD FY 2020 Rate Differential Analysis, p. 5, Table 3.) Even the District’s 2019 Technical Memorandum indicates M&I is not solely responsible for overdraft because it found that agricultural water use per acre exceeds M&I water use per acre even when accounting for return flows in the peculiar way the District chooses to do so. (2019 Tech. Memo., pp. 11–12.) HF&H’s statement is particularly egregious given that it directly contradicts an earlier statement in the same analysis: “Because of M&I’s higher beneficial use, M&I pumpage is given first priority to the basin safe yield. Ag receives the remaining basin safe yield.” (HF&H FY 2011–12 Cost of Service Analysis, p. 10.) HF&H actually changes whether M&I or agriculture has priority to safe yield in different sections **of the same analysis**, illustrating the weaknesses and faulty assumptions of its cost allocation scheme.

Fourth, HF&H’s cost allocation percentages have changed over time. UWCD now proposes to allocate over half its costs to “regulatory compliance,” (previously acknowledged as overdraft mitigation) though there has been no meaningful change in the District’s services. This suggests an effort to favor agriculture and to justify the 3:1 ratio post-hoc, rather than to straightforwardly provide the cost analysis our Constitution demands. HF&H’s cost allocation also improperly allocates the cost of the Freeman Diversion to the unusually large regulatory component, rather than the replenishment component, though the Freeman Diversion facility is primarily a vehicle for replenishing the agricultural regions in Zone B. (HF&H FY 2011–12 Cost of Service Analysis, p. 7 [Figure 3].) HF&H treats the dams as though they generate equal recharge for all pumpers, though UWCD’s own records show differential recharge of the eight basins in the District, which benefit agricultural users and M&I users differently. Indeed, the District established Zone B to isolate the costs of that Dam to the fraction of groundwater users who benefit from it. Thus, HF&H not only does not attempt to validate the division of costs between Zones A and B, it pretends that allocation does



not exist. Finally, HF&H relabels “overdraft mitigation” as “regulatory compliance” as an excuse to shift costs to M&I. As the City has pointed out repeatedly, M&I is not the sole cause of overdraft as it uses less water than agricultural uses and indeed, the lowest groundwater levels appear as “pumping holes” concentrated in agricultural areas.

Fifth, HF&H’s analysis is undermined by its reliance on the District’s budget concerning costs and capital improvement projects. (HF&H FY 2011–12 Cost of Service Analysis, pp. 6–7 [Figures 2 & 3].) The City has submitted substantial critiques of the Districts FY 2011–2012 and 2012–2013 budgets in these administrative records and before the Court. We incorporate by reference those points here. UWCD’s budgets misallocate cost and fail to demonstrate that rate revenue is restricted to permitted costs. They do not explain whether certain sub-fund deficits are made up from transfers from Zone A or Zone B charges, which would mean the District is improperly using restricted revenue to fund costs unrelated to the services for which the fees are imposed.

More globally, HF&H’s Cost of Service Analysis improperly conflates the costs to serve Zones A and B, producing one cost of service analysis for two separate charges. It does not separately analyze Zone B costs, for which the District accounts in a separate enterprise fund, and the groundwater management costs associated with Zone A. As a result, costs that are born by only some rate-payers — including costs associated with the Freeman Diversion Dam — are analyzed along with all other costs. This failure to separate costs is inconsistent with industry standards and results in an unreasonable cost allocation. Indeed, even where HF&H does separately identify pumping differences in Zones A and B, i.e., in Figure 5, it fails to identify whether or how it took into account Zone C pumping, a Zone UWCD used for most the period summarized over the 11-year review period. Even if HF&H’s Cost of Service Analysis is only intended to justify the legislatively mandated differential between M&I and agriculture, such a justification must still account for different services and costs borne by different ratepayers. Because it does not, the Cost of Service Analysis cannot justify the District’s proposed charges. Indeed, by purporting to justify a blended differential of 4.38-to-1.00, HF&F does not justify a 3-to-1 ratio, but instead implies that M&I was undercharged in FY 2011–2012 and 2012–2013 at the expense of agricultural users—which would also be a violation of Proposition 26 were there credible analysis to show it.

**Stratecon Report.** Stratecon’s analysis of the structure of the District’s extraction charges for FY 2011–2012 and 2012–2013 contains the same errors its analysis for subsequent years includes. It applies the wrong law and relies on unsupported and

unreasonable assumptions. The City therefore incorporates the objections it detailed in previous years' letters. (See May 30, 2017 Budget Workshop Exhs. U240-U241, U277-U278, U283- U350-U351, U372, U375, U446-U447, U491-U492, U541-U542, and U577.) For example, Stratecon states, "the ratio of non-agricultural to agricultural groundwater extraction charges exceed 3.0. United Water's board could reasonably set the ratio at least equal to the minimum ratio allowed under statutory law." (Stratecon FY 2011-12 report, p. 7.)<sup>3</sup> However, Proposition 26 requires UWCD to reasonably estimate its costs, not to provide a post-hoc rationalization for a 3:1 ratio legislated in 1965; agriculture must be shown not only to pay enough, it must also be shown not to pay too much. UWCD bears the burden of reasonably justifying the fees it adopts, not to merely identify a range of defensible fees it did not. Stratecon also values UWCD's cost of replenishment based on a modelled cost of water it gains via the Ferro-Rose project in 2019, though the report purports to rationalize rates from FY 2011-2012 and 2012-13. (*Id.* at pp. 4-5.) But this uses market value to measure cost of service, which the law does not permit. The issue under article XIII C, section 1, subdivision (e) is costs UWCD incurs, not the purported market value of its product.

Stratecon's report fails to persuasively support the District's rates. While it recognizes rainfall contributes to groundwater recharge on three different types of land—agricultural, M&I, and "streams and undeveloped lands," (*id.* at p. 2), it analyzes on two—agricultural and M&I (*id.* at pp. 6 & 11 [Table A-2]). This suggests Stratecon may be crediting agriculture for recharge due to precipitation on overlying undeveloped lands. In fact, as Stratecon admits, its effort to justify the District's charges lacks substantial evidence because the District "lacked information to quantify the proportion of rainfall and runoff on overlying lands beneficially recharging groundwater basins." (*Id.* at p. 6, fn. 20.) Where there is evidence, it suggests that urban runoff also contributes to recharge because, for instance, "runoff associated with developed lands upstream of the Freeman Diversion can also be captured at United's diversion and percolated in recharge basins in the Oxnard Forebay." (2019 Tech. Memo., p. A9.) Likewise, as UWCD concedes, a significant percentage of agriculture is dedicated to growing strawberries and raspberries, "and the current practice is to cover a large percentage of the berry fields with plastic sheeting which increases runoff and

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<sup>3</sup> Like HF&H's analysis, Stratecon's report on the FY 2011-2012 charges is nearly identical to its analysis of the FY 2012-2013 charges, but for some differences based on fluctuations in groundwater use between the years. For ease of reference, I cite only the FY 2011-2012 analysis, though each citation applies equally to both unless otherwise stated.

reduces the potential for infiltration during rain events.” (*Id.* at p. A10.) The evidence therefore does not support Stratecon’s assumption that rainfall on agricultural lands reduces the District’s cost to replenish groundwater for its use. Finally, like HF&H, Stratecon’s attempt to justify UWCD’s charges fails because it makes no effort to justify the actual rates UWCD imposed in Zones A and B—instead Stratecon conflates the two without acknowledging the difference between the costs associated with each zone.

Fundamentally, Stratecon uses an unconventional method, inconsistent with cost-of-service principles, to allocate the revenue requirement based on return flow and recharge. It uses an unrealistically high inflation rate of 5 percent and the resulting valuation of water from one project to justify rates that should be based on costs, not values. This method could result in UWCD charging agricultural customers none of its fixed costs — to which Stratecon assigns 90 percent of the revenue requirement without explanation (*id.* at p. 10) — associated with groundwater pumping if they use little water on a large parcel credited with substantial recharge from rainfall, reassigning those costs to M&I pumpers. (*Id.* at p. 13.) Stratecon calculates fixed cost by the share of demands for replenishment, adjusted by a credit for the “differential contribution of a water user’s class to recharge from overlying lands.” (*Id.* at p. 2.) This credit needlessly complicates the fixed cost calculation when, under Stratecon’s own rationale, the cost of replenishment activities should be based on net pumpage. Using net pumpage — assuming, without conceding, that its underlying numbers are correct — the differential between M&I and agricultural users should not be 3:1 because, based on Stratecon’s own figures, agriculture’s “adjusted pumping” is 73.2 percent of groundwater while M&I is just 26.8 percent. (*Id.* at p. 10 [Table A-1].)

**CONCLUSION.** The City does not here reiterate the factual and legal grounds on which it challenged the FY 2011–2012 and 2012–2013 charges that are already included in the administrative records. The Board is familiar with the City’s position that the District cannot cost-justify a 3:1 ratio derived from a 1965 statute and it therefore effects a cross-subsidy that violates Proposition 26. The Board is also familiar with the City’s position that the District’s misallocation of revenue and use of restricted funds for projects and services that do not reflect the City’s benefit from or burden on District operations renders these charges taxes not approved by the voters. For all these reasons, the City respectfully requests the District refrain from adopting the proposed resolutions staff submitted for the February 12, 2020 meeting.

President Mobley and Members of the Board of Directors  
United Water Conservation District  
February 12, 2020  
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Again, we thank your staff seeking to hold open the administrative records and will supply more meaningful comments by February 24, 2020 for the Board's consideration.

Very truly yours,



Michael G. Colantuono  
Special Counsel  
City of San Buenaventura

MGC:djr  
Enclosures--

c: Mauricio E. Guardado, UWCD General Manager  
David D. Boyer, UWCD General Counsel  
Susan Rungren, General Manager, Ventura Water  
Gregory G. Diaz, City Attorney, City of San Buenaventura  
Miles P. Hogan, Assistant City Attorney II – Water, City of San Buenaventura

Attachments: A – February 12, 2020 letter from Curtis Hopkins, Hopkins Groundwater Consultants, Inc. to Susan Rungren, Ventura Water re: United Water Conservation District, Proposed Annual Budget, Fiscal Year 2011/12, Dated April 28, 2011, HF&H Consultants, LLC, FY 2011-12 Cost-of-Service Analysis Final Report Dated January 3, 2020, and Stratecon Inc., Stratecon Analysis of the Structure of United Water Conservation District's Water Conservation Extraction Charges for FY 2011-12 Letter Dated January 30, 2020, HF&H Consultants, LLC, FY 2012-13 Cost-of-Service Analysis Final Report Dated January 3, 2020, and Stratecon Inc., Stratecon Analysis of the Structure of United Water Conservation District's Water Conservation Extraction Charges for FY 2012-13 Letter Dated January 30, 2020.

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- B – February 11, 2020 letter from Steve Gagnon, PE (AZ), Raftelis Financial Consultants, Inc., to Susan Rungren, Ventura Water re: Review of United Water Conservation District FY 2011-2012 and 2012-2013 Cost of Service Analyses



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February 11, 2020

Ms. Susan Rungren  
Ventura Water General Manager  
City of Ventura  
336 Sanjon Road  
Ventura, California 93001

**Subject: Review of United Water Conservation District FY 2011-2012 and 2012-2013  
Cost of Service Analyses**

Dear Ms. Rungren:

The City of San Buenaventura (City) engaged Raftelis Financial Consultants, Inc. (Raftelis) to review United Water Conservation District's (UWCD) justification of the 3:1 ratio between municipal and industrial (M&I) and agricultural (AG) water rates for fiscal year (FY) 2011-2012 and FY 2012-2013. Raftelis reviewed the reports prepared by HF&H and Stratecon Inc. dated January 3 and January 30, 2020, respectively. These reports followed the basic premises that HF&H and Stratecon used to justify the rates in reports dated May 2018, May 2017, May 2016, May 2015, May 2014, June 2013, and October 2013 on which we commented in previous years.

**Comments on Both HF&H and Stratecon Reports**

1. UWCD has rates by Zone – Zone A and Zone B. If UWCD groups customers by Zone, then a proper Cost of Service (COS) analysis would assess the costs to serve water in each of those zones as the costs may be different. The two reports mentioned herein, combine Zones A and B to calculate one ratio - which does not follow COS principles.

**Comments on HF&H January 2020 Reports (referred to as "the report")  
Comments Regarding the Underlying Methodology**

2. Proposition 218 does not apply to UWCD's rates; however, Proposition 26 does. The District's founding act favors agricultural water use in that it requires M&I pumpers to be charged at least 3 times to no more than 5 times the rate for AG. These ratios, given that they are round numbers, do not have a cost basis, and contradicts Proposition 26, which is shown below.

"The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or



reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity."

3. Rate setting uses the concept of cost components (a cost center). In this report the cost components are **Replenishment, Reliability and Regulatory Compliance**. In a rate study, the analyst then seeks to allocate those cost components to each customer class based on how a class causes the costs for a cost component.
4. **Replenishment costs** – the pertinent question is how does each class (AG and M&I) cause Replenishment costs? It is reasonable to assume costs are in proportion to consumptive use. Though Raftelis has questions about the consumptive calculations in Figure 6<sup>1</sup>, in general, we agree with distributing costs to each class in proportion to use.
5. **Reliability costs** – again the pertinent question is how does each class cause Reliability costs? The report assumes Reliability costs are in proportion to each classes' take of the safe yield (Figure 8). California Water Code Section 106 states "the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation." The report acknowledges this on page 10 (section IIIB). It then uses this premise to distribute Reliability costs, stating that "Because of M&I's higher beneficial use, **M&I pumpage is given first priority to the basin safe yield.**" The conclusion that M&I pumpage is given first priority to the basin safe yield does not necessarily follow from this statutory mandate. HF&H ignores historical data concerning the reliability AG has experienced in comparison to M&I. This is discussed in item 8 of this letter.
6. **Regulatory Compliance costs** - for the Regulatory Compliance cost component, again the pertinent question is how does a class cause Regulatory Compliance costs? The report assumes that **overdraft causes or is proportional to Regulatory Compliance costs**. Meaning that whichever class causes more overdraft causes or has more responsibility for Regulatory Compliance costs. However, this time M&I does not get first priority to safe yield. In Section IIIC page 12, to distribute Regulatory Compliance costs the report states "**As the predecessor pumper to M&I, AG is given preference to pumping the safe yield.**" And in the first paragraph of page 12 "Because overdraft is mostly attributable to the advent of M&I pumpage, the allocation of regulatory compliance costs should reflect AG's and M&I's contributions to overdraft."

Raftelis has two concerns: 1) Is overdraft proportional to Regulatory Compliance costs and 2) how can M&I have first priority for Reliability but not Regulatory Compliance?

First, the link or nexus between overdraft and Regulatory Compliance is weak and likely conjured to back calculate a cost ratio (of at least 3 to 1) to meet the District's founding act requirements. The report states on page 11 "the construction of facilities that provide reliability has resulted in subsequent regulatory compliance costs that do not improve reliability." If the **facilities** caused the regulatory compliance costs, then a good cost nexus would ask "who (which class) caused the facilities?" Regulatory Compliance costs should be

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<sup>1</sup> Line h, Figure 6, seems to imply there is more rain over AG customers?

distributed like Reliability costs, which if we accept all other assumptions for a moment just to make a point – the ratio of M&I to AG immediately changes to 1.5 to 1. If overdraft ceased immediately, regulatory costs would not go away because, according to HF&H, they are tied to Endangered Species Act and Dam Safety requirements per page 5 of the report. Indeed, page 11 of the reports projects increases in these costs, though the District is presumably aiming to decrease overdraft. Regulatory costs would not exist if it weren't for the dams, which were constructed to improve reliability. Moreover, the water from the dams and diversion facility are part of the safe yield, of which per the report, AG receives first priority. However, the associated costs (regulatory costs) are allocated primarily to M&I users.

Second, in-light of Water Code 106, why is it assumed that AG has first priority to groundwater (safe yield)? Since it is assumed that AG has first right to the safe yield, AG's share of overdraft is much less than M&I. Therefore, in this report, Regulatory Compliance costs are distributed mostly (82%) to M&I and as such helps achieve the 3 to 1 ratio.

### HF&H Assumptions Contradict UWCD's 2011 Rate Study

Raftelis noticed that the report's assumptions directly contradict UWCD's 2011 Rate Study as discussed below.

7. The report assumes (on page 12 of the FY 2011-2012 report) that overdraft is due to M&I – "Because overdraft is mostly attributable to the advent of M&I pumpage, the allocation of Regulatory Compliance should reflect AG's and M&I's contribution to overdraft." Figure 10 of the report, shows that overdraft is mostly due to M&I. This contradicts UWCD's 2011 Rate Study which on page 34 of the Final Report states "the majority of the overdraft in the Oxnard Plain aquifers has been caused by agricultural pumping in the eastern southern part of the plain."
8. HF&H states (page 4) that "M&I reliability would be subject to the same interruptions that AG is exposed to...." On page 10, the report states "Any AG pumpage that exceeds the basin safe yield is considered interruptible...." These statements imply that AG use is curtailed and interruptible during droughts. However, UWCD's Rate Study states (page 34 of the Final Report – 2011 Water Rate Study) "M&I pumpers within the Fox Canyon GMA are subject to more stringent pumping restrictions than AG, which can receive the water its needs through the efficiency provisions of GMA ordinances."

### Comments Regarding the Calculations

9. The report allocates the District's budget, in Figure 2, to the different cost components – Replenishment, Reliability, and Regulatory Compliance cost, without a basis or logic (the allocation was provided by UWCD to HF&H). The table below shows, for example, that 73.5% of UWCD's personnel and overhead costs are allocated to Regulatory Compliance. Capital is 79.5% to Regulatory Compliance. Transfers are 84% to Regulatory Compliance. What is the basis for these allocations? **The allocation implies that more than 50% of UWCD's costs are to meet regulatory compliance.** For transparency, the logic used to allocate UCWD's budget to the cost components should be provided so the reader can trace the rate derivation starting from the revenue requirement – which is line ac of Figure 2 in the HF&H report (\$13.3M in the FY 2011-2012 report).

	Total	Replenishment	Reliability	Regulatory Compliance
Personnel	\$2,554,022	\$446,920	\$228,833	\$1,878,269
Program Costs	\$3,305,512	\$1,038,995	\$457,087	\$1,809,430
Overhead	\$2,817,838	\$493,084	\$252,470	\$2,072,284
Capital	\$312,609	\$2,751	\$61,455	\$248,403
Debt Service	\$3,502,014	\$0	\$3,502,014	\$0
Transfer to Capital Reserves	\$833,960	\$0	\$133,960	\$700,000
<b>Total</b>	<b>\$13,325,955</b>	<b>\$1,981,750</b>	<b>\$4,635,819</b>	<b>\$6,708,386</b>
<b>Total Allocation</b>		<b>14.9%</b>	<b>34.8%</b>	<b>50.3%</b>
Personnel	100.0%	17.5%	9.0%	73.5%
Program Costs	100.0%	31.4%	13.8%	54.7%
Overhead	100.0%	17.5%	9.0%	73.5%
Capital	100.0%	0.9%	19.7%	79.5%
Debt Service	100.0%	0.0%	100.0%	0.0%
Transfer to Capital Reserves	100.0%	0.0%	16.1%	83.9%
<b>Total</b>		<b>14.9%</b>	<b>34.8%</b>	<b>50.3%</b>

### Comments on Stratecon January 30, 2020 Report

10. Raftelis may not agree with all HF&H's logic and conclusion, however the report follows a sequential derivation of rates that the reader can follow. It is prepared in a traditional, cost of service, rate setting fashion. The same cannot be said for the Stratecon report. It is very difficult to follow and implies weak correlations between Cost of Service principles and Stratecon's proposed approach.
11. The Stratecon approach is significantly different from traditional rate setting approaches.
12. Figure 1, on page 9 of the FY 2012-2013 memo, is supposed to convey something to the reader. We are not sure what to conclude from this figure with dozens of boxes and three arrows.
13. The revenue requirement, on page 6 of the FY 2011-2012 memo (\$7.9M), is roughly \$5 million lower than the revenue requirement shown in the HF&H report (\$13.3M on page 6 of the FY 2011-2012 COS analysis). **This is a big difference. How can UCWD's revenue requirement be so different in these two reports?**
14. Attachment A, page 10, puts forth that 10% of UCWD's costs are variable. How was this derived? This means 90% of costs are fixed.
15. Table A-2 of the FY 2011-2012 analysis has two factors (0.09 and 0.16) in the right most column, how were these derived?
16. The Stratecon memo uses one transaction, the acquisition of the Ferro/Rose property, to calculate "the cost of replenishment activity." The cost of "replenishment activity" is then used to calculate a credit in tables A-4, A-6 and A-8. There is no explanation given as to why the Non-Agricultural credit is the negative of the Agricultural credit.

## Summary

If one accepts the cost components as put forth in the HF&H report, UCWD allocates more than 50% of its budget to the Regulatory Compliance component and Regulatory Compliance costs are disproportionately distributed to M&I customers. We believe Regulatory Compliance costs should be distributed like Reliability costs since the dams (which increase reliability) are purportedly the cause of the regulatory compliance costs. Doing so<sup>2</sup> immediately decreases the ratio of AG to M&I to 1.5 to 1.

The Stratecon report departs from traditional rate setting and cost of service principles in many ways and yet pages 3 and 4 of the FY 2011-2012 report try to draw similarities between cost of service and the proposed approach that we don't feel are valid.

Sincerely,

A handwritten signature in blue ink, reading "Steve Gagnon", with a stylized flourish at the end.

Steve Gagnon, PE (AZ)  
Sr. Manager  
Raftelis

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<sup>2</sup> This assumes we accept all other assumptions just to make this point. We do not recommend accepting all other assumptions.

# HOPKINS

GROUNDWATER  
CONSULTANTS, INC.  
THE WATER RESOURCE SPECIALISTS



February 12, 2020

Project No. 01-009-10D

City of San Buenaventura

Post Office Box 99

Ventura, California 93002-0099

Attention: Ms. Susan Rungren  
General Manager, Ventura Water

Subject: United Water Conservation District, Proposed Annual Budget, Fiscal Year 2011/12, Dated April 28, 2011, HF&H Consultants, LLC, FY 2011-12 Cost-of-Service Analysis Final Report Dated January 3, 2020, and Stratecon Inc., Stratecon Analysis of the Structure of United Water Conservation District's Water Conservation Extraction Charges for FY 2011-12 Letter Dated January 30, 2020, HF&H Consultants, LLC, FY 2012-13 Cost-of-Service Analysis Final Report Dated January 3, 2020, and Stratecon Inc., Stratecon Analysis of the Structure of United Water Conservation District's Water Conservation Extraction Charges for FY 2012-13 Letter Dated January 30, 2020.

Dear Ms. Rungren:

As requested by the City of San Buenaventura (City), Hopkins Groundwater Consultants, Inc. (Hopkins) has reviewed the subject United Water Conservation District (UWCD) Proposed Annual Budget (UWCD, 2011) dated April 28, 2011, the HF&H Consultants, LLC, FY 2011-12 and 2012-13 Cost-of-Services Analysis letters dated January 3, 2020, and the Stratecon Inc., Analysis of the Structure of United Water Conservation District's Water Conservation Extraction Charges for FY 2011-12 and 2012-13 letters dated January 30, 2020, that will be presented at the UWCD Board of Directors meeting on February 12, 2020.

To begin our discussion about the present rate making process, we must be clear about the fact that the approach required to justify a 3:1 or greater, municipal and industrial (M&I) to agricultural (Ag) cost ratio abandons the actual water balance of the groundwater basins within the UWCD and instead interjects special recognition for agricultural water rights.

We believe it is unreasonable for the engineers and accountants at HF&H to assign water rights in a manner that bias the cost of groundwater. This approach clearly discounts M&I rights to water that result from: (a) historical use since the early 1900's, (b) purchasing mutual water companies, (c) conversion of agricultural land to residential or commercial uses, and (d) the natural recharge and irrigation return flows that occur on M&I acreage. As a result, the method of financial analysis inappropriately assigns the safe yield portion of groundwater in the UWCD to agricultural pumpers and assigns the overdraft to the M&I pumpers. These upfront factual

inaccuracies skew the entire analysis. Instead, we believe the cost to maintain the groundwater system in the UWCD should be proportional to the burden resulting from each class of groundwater pumper and based on the water balance calculated by UWCD.

We observe that the format and method of retroactive calculation of the benefits of the 2011-12 and 2012-13 rate study analyses are the same as calculations conducted for subsequent years, so we will not go through them in detail, but rather reference where these points are addressed in previous documents and provide only new illustrations to clarify our views of the rate analyses deficiencies. To direct the discussion about the cost of services, we will focus on the key factors that require the services of water conservation/water replenishment that are provided by the UWCD.

### **Hydrogeological Accounting of Replenishment Requirements**

All overlying beneficial uses of groundwater were previously assessed by UWCD studies (UWCD, 2013f and 2019b) and relied upon for the subject rate studies. While the means of assessing rates for the production of groundwater for each of the two classes of water users identified as Ag and M&I may be unconventional for a rate study, we do not question the methodology or its accuracy in this review. ***For the purpose of our discussion, we will utilize the UWCD water balance assessment for land uses and its conclusions to illustrate our findings; that the amount of M&I demand on the groundwater system does not warrant a 3:1 cost burden but rather a 1.2:1 and a 1.3:1 ratio, respectively for the fiscal years (FY) 2012 and 2013 being evaluated.***

This assessment summarizes the water balance findings of the UWCD studies (as presented in UWCD, 2013f and 2019b) that should be considered by UWCD's financial consultants in establishing its groundwater pumping rates. These data are summarized in Table 1 – Water Budget Deficits for ease of review. Using the water budget deficit, referred to by the UWCD as the adjusted consumptive use (or alternatively as the net extraction), we see that the 11-year average for agriculture is 59,539 acre-feet per year (AFY) and the 11-year average for municipal is 20,808 AFY. ***These net volumes of consumed water require annual replenishment by the UWCD*** to maintain a water balance based on the land-type uses of groundwater. Here we see that 74 percent of the amount of replenishment water to achieve a balance is required to replace groundwater consumed by agriculture while only 26 percent of the consumed water is from M&I land uses (see Table 1).



**Table 1 – Water Budget Deficits**

GROUNDWATER USER CLASSIFICATION	AVERAGE GROUNDWATER PRODUCTION (ACRE-FEET)	ESTIMATED GROUNDWATER RECHARGE (ACRE-FEET)	ESTIMATED ADJUSTED CONSUMPTIVE USE (ACRE-FEET)	PERCENT OF TOTAL CONSUMPTIVE USE
<b>11-YEAR AVERAGE 2001-2011<sup>1</sup></b>				
AGRICULTURAL	149,448	89,909	59,539	74
MUNICIPAL	43,364	22,556	20,808	26
TOTAL	192,812	112,465	80,347	100
<b>11-YEAR AVERAGE 2002-2012<sup>2</sup></b>				
AGRICULTURAL	148,550	88,554	59,995	74
MUNICIPAL	43,232	21,724	21,507	26
TOTAL	191,781	110,278	81,503	100

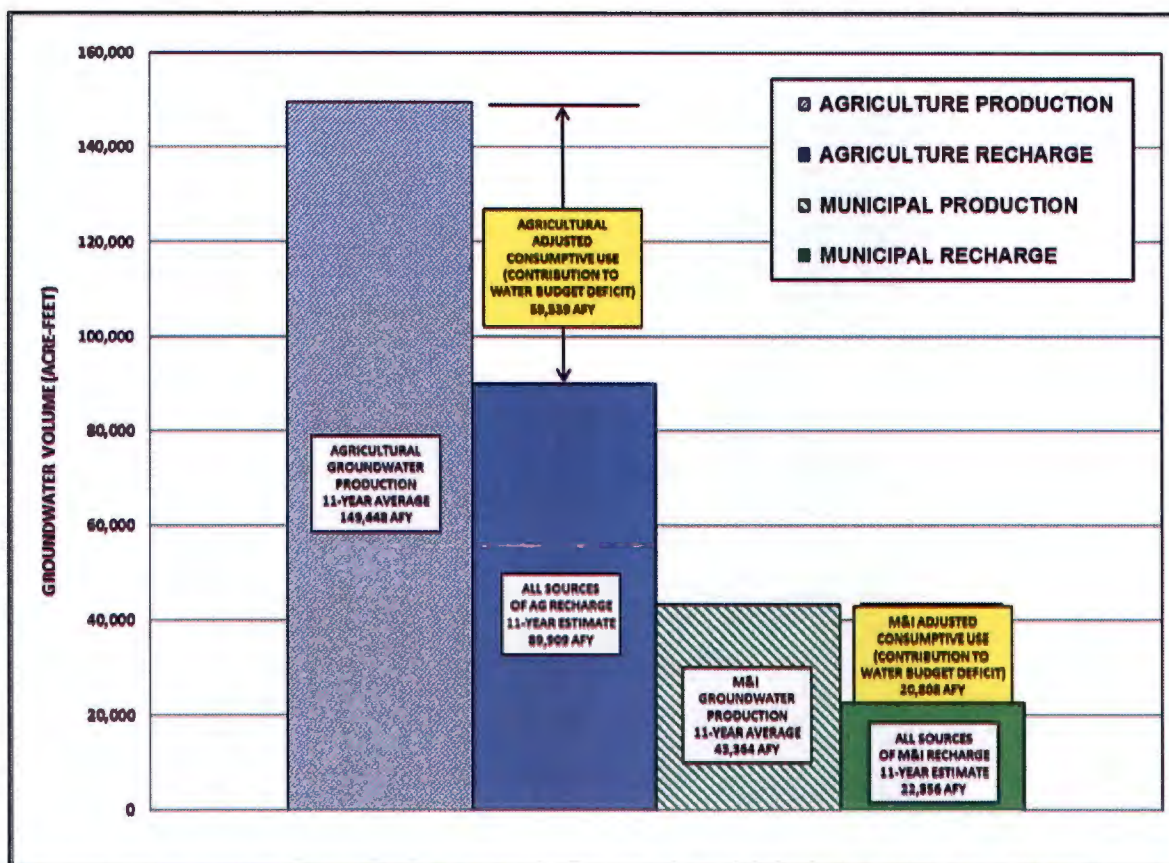
<sup>1</sup> – FROM FIGURE 6 (HF&H, 2020)

<sup>2</sup> – FROM FIGURE 6 (HF&H, 2020a)

Figure 1 – Adjusted Consumptive Use of Groundwater 2001 to 2011 and Figure 2 – Adjusted Consumptive Use of Groundwater 2002 to 2012 provide a graphical summary of the UWCD findings, which evaluated the groundwater replenishment requirements based on land use (groundwater consumption directly related to M&I and Agricultural user classes). In these two figures we see the results of the comprehensive comparison of the average annual production to the average annual recharge accredited to each land use for the 11-year-periods of 2001 to 2011 and 2002 to 2012 from all sources of surficial recharge on developed lands district wide (rainfall and groundwater return flows in both confined and unconfined groundwater basins).

The average annual amount of consumptive use of the groundwater pumped for each land use (see Figure 1 and 2 yellow highlighted amounts) is equal to the amount of groundwater required to recharge the basins district wide. This is the contribution to the water budget deficit from each land use as calculated by the UWCD, to restore the amount of groundwater pumped.

**Figure 1 – Adjusted Consumptive Use of Groundwater 2001 to 2011**



As indicated in Table 1, while the average annual totals are a little different, the average annual percent of consumptive use was the same for each fiscal year evaluated. Groundwater consumption for agricultural land uses resulted in contributing to 74 percent of the total annual groundwater deficit and M&I land uses contributed to 26 percent.

It is unclear why the UWCD believes it costs more per acre foot to replace the M&I portion of this annual deficit compared to the agricultural portion of the deficit. Each overlying land use pumps groundwater and each land use allows vertical infiltration of recharge back to groundwater. The method of surface water capture (Santa Felicia Dam) and subsequent release for downstream recharge is the same for both groundwater users. The Freeman Diversion Dam is the same primary structure used to divert surface water flows from the Santa Clara River for direct groundwater recharge or in lieu uses for both developed land uses. When land is converted from agricultural uses to M&I land uses, these structures perform the same and cost the same as they did before.



**Figure 2 – Adjusted Consumptive Use of Groundwater 2002 to 2012**

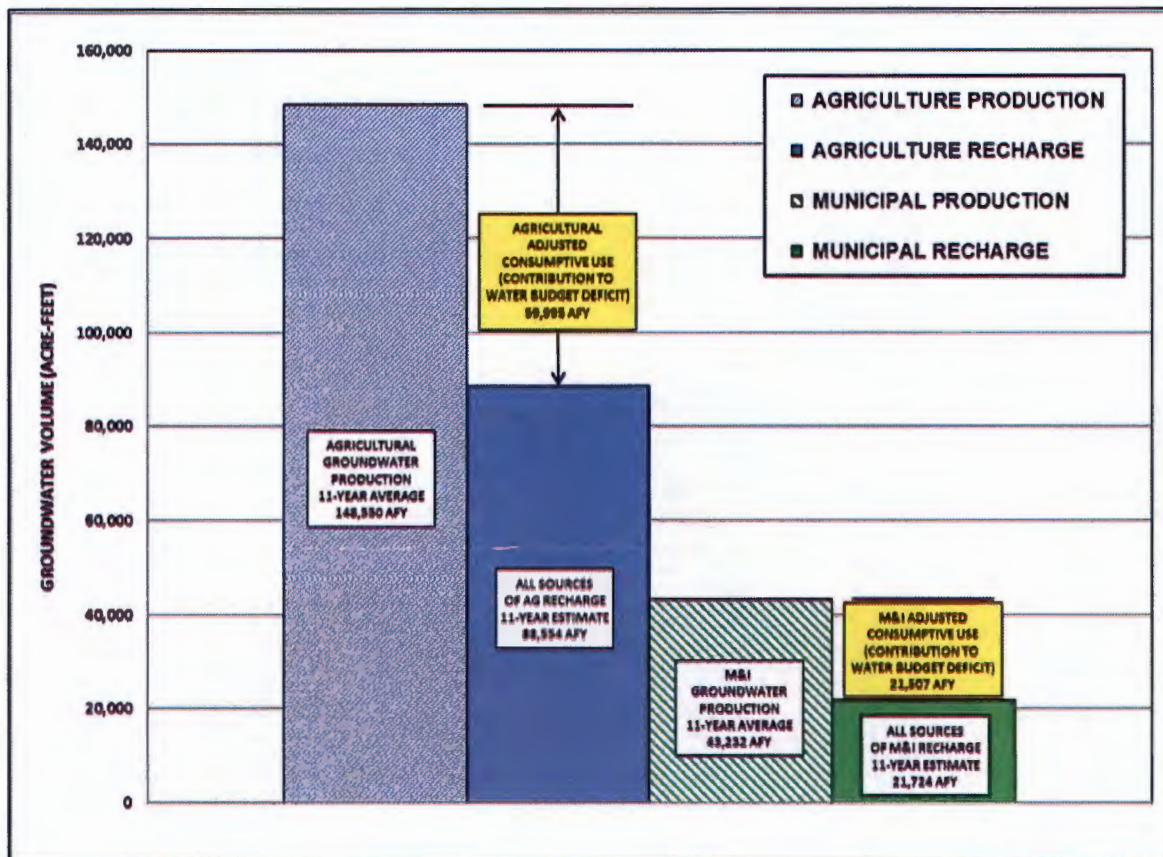


Table 2 – Consumptive Use Per Acre Foot of Groundwater Produced shows that the resulting agricultural ratio for 2001 to 2011 is 0.398 acre-foot of groundwater consumed per acre-foot produced and the municipal ratio is 0.480 acre-foot of groundwater consumed per acre-foot produced. Dividing the M&I result by the agricultural result ( $0.480 / 0.398 = 1.21$ ) yields a ratio of required replenishment of 1.21:1 (M&I to agricultural) which could be used as the cost burden ratio for pumping fees for this time period. These data indicate that rates for groundwater recharge district wide would be supported at a 1.21:1 cost ratio (without questioning or removing any bias in the UWCD 2013 or 2019 studies), not 3:1 or greater as presently claimed.

Table 2 also shows that the resulting agricultural ratio for 2002 to 2012 is 0.404 acre-foot of groundwater consumed per acre-foot produced and the municipal ratio is 0.497 acre-foot of groundwater consumed per acre-foot produced. Dividing the M&I result by the agricultural result ( $0.497 / 0.404 = 1.23$ ) yields a ratio of required replenishment of 1.23:1 (M&I to agricultural) which could be used as the cost burden ratio for pumping fees for this time period. These data indicate that rates for groundwater recharge district wide would be supported at a 1.23:1 cost ratio

(without questioning or removing any bias in the UWCD 2013 or 2019 studies), and not 3:1 or greater as presently claimed.

**Table 2 – Consumptive Use Per Acre Foot of Groundwater Produced**

GROUNDWATER USER CLASSIFICATION	AVERAGE CONSUMPTIVE USE DIVIDED BY GROUNDWATER PRODUCTION (ACRE-FEET)	RESULTING CONSUMPTIVE USE TO GROUNDWATER PRODUCTION RATIO (ACRE-FOOT/ACRE-FOOT)	PERCENT CONSUMPTIVE USE OF GROUNDWATER PRODUCED PER ACRE
<b>11-YEAR AVERAGE 2001 TO 2011<sup>1</sup></b>			
AGRICULTURAL	(59,539 / 149,448)	0.398	39.8 %
MUNICIPAL	(20,808 / 43,364)	0.480	48.0 %
<b>11-YEAR AVERAGE 2002-2012<sup>2</sup></b>			
AGRICULTURAL	(59,995 / 148,550)	0.404	40.4%
MUNICIPAL	(21,507 / 43,232)	0.497	49.7%

<sup>1</sup> – FROM FIGURE 6 (HF&H, 2020)

<sup>2</sup> – FROM FIGURE 6 (HF&H, 2020a)

The direct use of the UWCD study estimates applied to the 2001-2011 and the 2002-2012 periods for rate calculation provides a method of distributing the cost of overdraft mitigation that removes the discriminatory and unauthorized method of allocating groundwater safe yield priority to any single class of groundwater pumper. Correcting this single error in groundwater resource allocation will allow the UWCD's financial consultants to better derive a cost of service that is proportional to the benefits received by all groundwater pumpers that equally receive the UWCD's services.

### **Supply Reliability and Overdraft Mitigation**

The UWCD has historically conducted numerous projects to replenish and improve groundwater conditions in its district boundaries that include: impoundment and release of surface water, diversion and spreading surface water to recharge groundwater, purchase and importation of water, and construction of pumping and pipeline facilities to relocate, redistribute, and offset groundwater production. These efforts have incrementally contributed to the present state of the



groundwater basins within the UWCD and ultimately proved inadequate for the groundwater replenishment required to mitigate overdraft.

Historical demands for agricultural and M&I uses have simultaneously grown through the years. Agricultural groundwater use increased as farming practices switched from dry crops (non-irrigated) to irrigated crops, from low water use crops to more water intensive crops, and in some locations from a rotation of 2 crops per year to 3 crops per year. All of these changes along with development of fallow hillsides and expansion of the acreage being farmed increased groundwater demand for agricultural uses. As the municipal areas within the UWCD expanded, a vast majority of the land that was developed displaced agricultural land uses. *The groundwater demand to support the expansion of M&I land conversion from Ag uses increased over time, but because the per acre use was less than the agricultural demand that it replaced, the net groundwater consumption to support the overlying land use decreased.*

The UWCD 2011-12 rate study (HF&H, 2020) indicates that an average of 149,448 AFY of groundwater was produced for 80,078 acres of agriculture, which results in **1.87 acre-feet per acre**. The average M&I usage is reportedly 43,364 AFY to serve 40,918 acres and results in **1.06 acre-feet per acre**. Similarly, the UWCD 2012-13 rate study (HF&H, 2020a) indicates that an average of 148,550 AFY of groundwater was produced for 80,078 acres of agriculture, which results in **1.86 acre-feet per acre** while the average M&I usage was reportedly 43,364 AFY to serve 40,918 acres and results in **1.06 acre-feet per acre**. This demonstrates that as land is converted from agriculture to M&I uses over time, the groundwater demand is reduced. Unfortunately, the rate of reduced groundwater consumption from M&I development was less than the expansion of agricultural groundwater uses, and overdraft has continued. *This condition alone makes groundwater less reliable for M&I pumpers.*

Historical efforts have failed to satisfy the groundwater demand within the UWCD and overdraft documented by the UWCD has persisted since the district's inception. The municipal users have been forward-thinking and have diversified their water supply portfolios, while not getting credit for these efforts.

The effects of the chronic overdraft condition within the UWCD contributed to the formation of the Fox Canyon Groundwater Management Agency (FCGMA) in the early 1980's, which was empowered to restrict groundwater production in a large portion of the UWCD and other groundwater basins that bound the district. The insufficient replenishment activities upstream of the FCGMA boundary within the Santa Clara River valley perpetuated overdraft conditions and led to the UWCD filing a legal suit to adjudicate the Santa Paula Groundwater Basin and the 1996 stipulated judgment limits groundwater production for all pumpers in that basin.

The result of FCGMA regulatory actions has decreased the availability and reliability of groundwater supplies for M&I pumpers in the UWCD. The FCGMA initially established a base period (1985 to 1989) and recorded historical production over the 5-year period. The 5-year-production annual average was established as the historical allocation for each well facility in the

agency boundary. Subsequently, the historical allocation was reduced by 25 percent to achieve the estimated safe yield of the groundwater basins in the FCGMA. This effectively reduced the availability of all who were restricted to operate under a historical allocation reporting system. If agricultural water demands could not be satisfied with the reduced historical allocation, the agency established an irrigation efficiency allocation that would allow an increase in groundwater production as long as the use was efficient for the crop being raised. *Effectively, this allocation scheme provided agricultural pumpers with a reliable supply for their land use, while firmly reducing the groundwater availability to M&I land uses. The increased pumping that was allowed for agricultural uses made the supply less reliable for M&I uses and overdraft continued.*

Multi-year dry weather cycles produce groundwater conditions along the coast that are similar or worse than those observed during the FCGMA base period which occurred during the late 1980's drought. Cutbacks on M&I groundwater allocations continued through 2010 when only 75 percent of historical pumping was available for M&I use without penalty, yet increases in agricultural uses were tolerated without penalty. UWCD did nothing, and perhaps can do nothing to curtail agricultural use to create M&I reliability. After 20 years of basin management by the FCGMA (1990 to 2010) and decades of groundwater replenishment operations provided by the UWCD, the M&I pumpers cannot rely on the supply they plan to use during surface water shortages. Existing conditions of a severely restricted supply and unavailable conserved groundwater do not support the analysis and conclusion of the rate study that the FY 2012 and FY 2013 average of 43,364 AFY and 43,232 AFY, respectively of groundwater for M&I use is reliable. *The M&I pumpers are not able to rely on what they have paid for and have received mandatory cutbacks, while there has been no interruption to agricultural pumpers as overdraft in the UWCD continues.*

The agricultural class of water user in the FCGMA portion of the UWCD under the irrigation efficiency method of groundwater use accounting increases groundwater use during a drought while M&I users conserve. Again, this method of management allowed use of groundwater for any crop and under any climatic condition as long as it was within the designated efficiency. *This management strategy clearly shows the agricultural class of groundwater user has historically had a reliable supply for its needs, one that it has not been proportionately paying for.* The direct result has been an increase in agricultural pumping during droughts.

Adjudication of the Santa Paula Groundwater Basin resulted in phased reduction in groundwater pumping as required to achieve safe yield of the basin. If replenishment measures are insufficient to satisfy groundwater production in the basin, all users will be reduced, but the City of Ventura could potentially lose its entire 3,000 AFY of historical allocation. Here again is an unreliable City groundwater supply, for which it pays a premium pump tax. This amount is included in the annual averages of 43,364 and 43,232 AFY for 2012 and 2013, respectively, for which the UWCD states is a reliable supply.

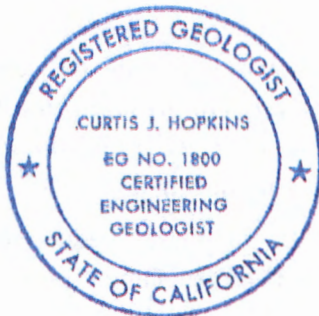


### Water Quality Impact Mitigation Costs

The burden of water quality impacts associated with agricultural return flows are borne by M&I users in the UWCD who must either treat or blend the groundwater to achieve drinking water standards. It has long been recognized that overwatering to leach minerals from the root zone of plants results in mineral buildup in the underlying aquifer system. The City of Oxnard and the City of Camarillo utilize imported State Project Water at a considerable cost to blend with produced groundwater and make the supply potable. The City of Oxnard also operates a brackish groundwater desalter to produce a high-quality water supply for blending. The desalter produces groundwater from the poorest quality aquifer zone in the Oxnard Plain and at a considerable cost removes salts from the basin. Similarly, the Oxnard Hueneme Pipeline wellfield is often impacted by high nitrate concentrations from surrounding agricultural land uses. *When the UWCD elects to import its allocation of State Project Water to be used for spreading to dilute the groundwater and mitigate the impact of elevated nitrate, the cost is attributed to benefitting M&I users. Actually, the cost is required for mitigation to reduce the impact of agricultural return flows that are high in nitrate from fertilizer. These types of water quality mitigation costs should be accounted for by the UWCD and attributed to agricultural pumping.*

We trust the analyses of this letter-report provide a sufficient and concise explanation to further clarify the water balance issues that should be used as the basis for the UWCD's financial consultants to appropriately justify the UWCD's cost ratio between M&I and agricultural rates for groundwater extraction fees.

If you have questions or need additional information, please give us a call.



Sincerely,

HOPKINS GROUNDWATER CONSULTANTS, INC.

Curtis J. Hopkins  
Principal Hydrogeologist  
Professional Geologist GEO 5695  
Certified Engineering Geologist CEG 1800  
Certified Hydrogeologist CHG 114

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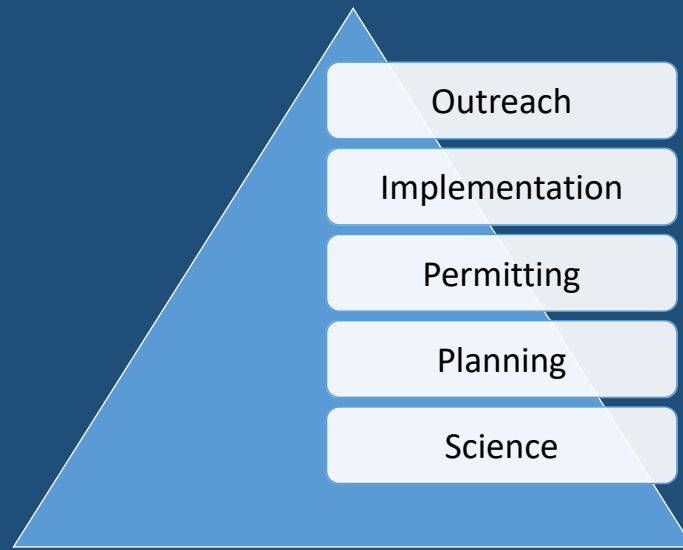
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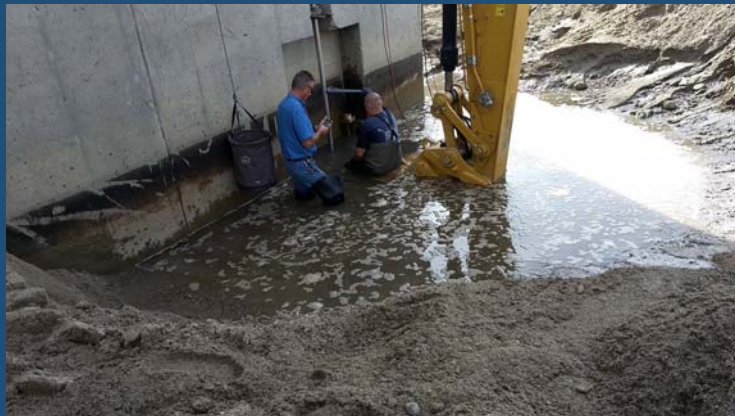
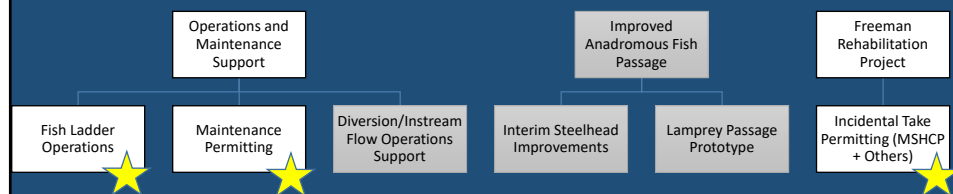
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## 5.1 Environmental Planning and Conservation Department Report

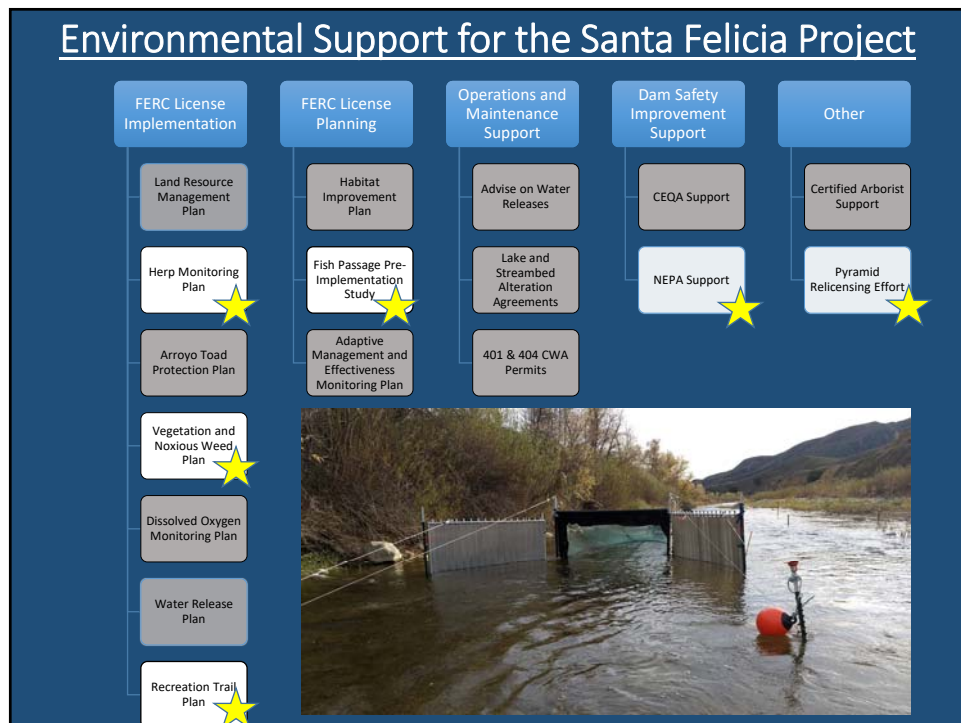


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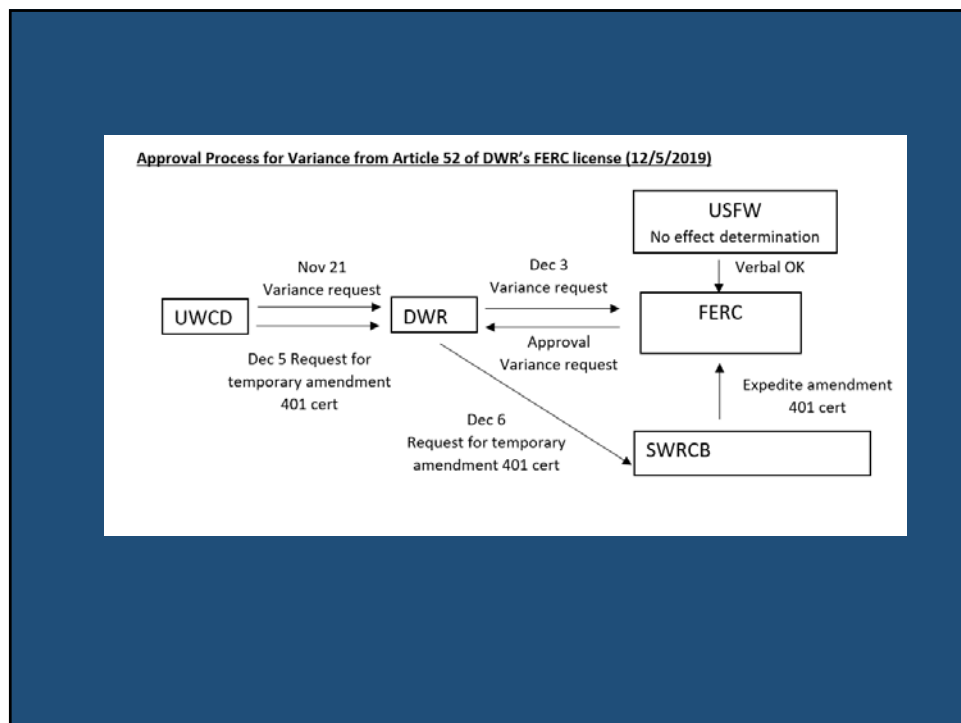
### Environmental Support for the Freeman Diversion Project



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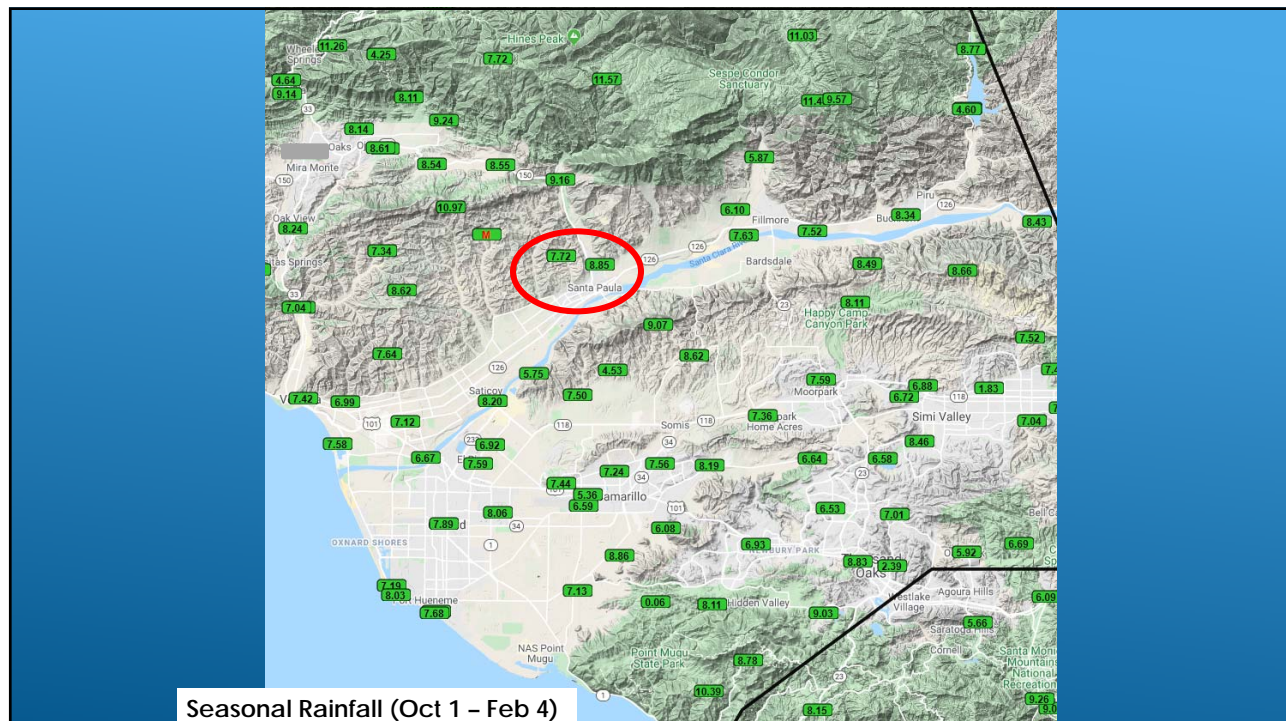
# GROUNDWATER DEPARTMENT UPDATE

## Topics:

1. Recent rainfall and El Nino forecast
2. Groundwater conditions
3. SWP purchases and exchanges
4. California's 2020 Water Resilience Portfolio

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# El Niño/Southern Oscillation (ENSO) Update

## Recent Evolution, Current Status and Predictions:

- ENSO-neutral conditions are present.
- Equatorial sea surface temperatures (SSTs) are near-to-above average across much of the Pacific Ocean.
- The tropical atmospheric circulation is generally consistent with ENSO-neutral.
- ENSO-neutral is favored during the Northern Hemisphere spring 2020 (~60% chance), continuing through summer 2020 (~50% chance).

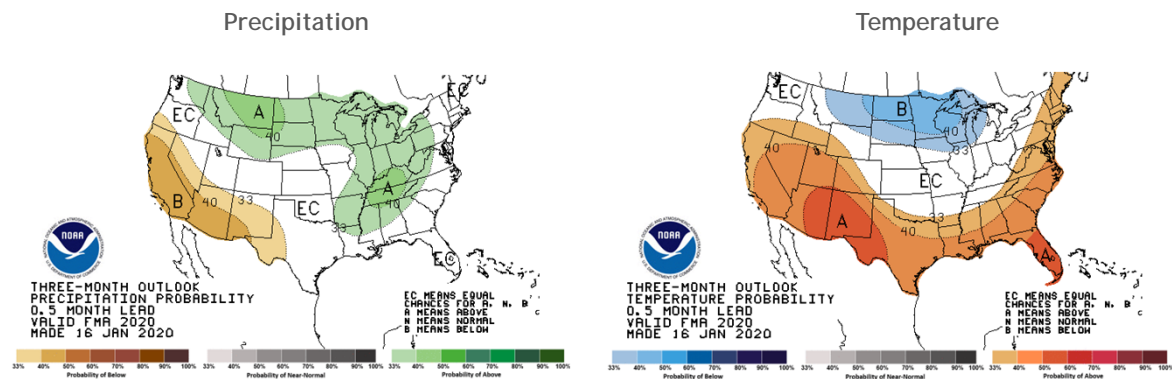
Update prepared by:  
Climate Prediction Center / NCEP  
3 February 2020



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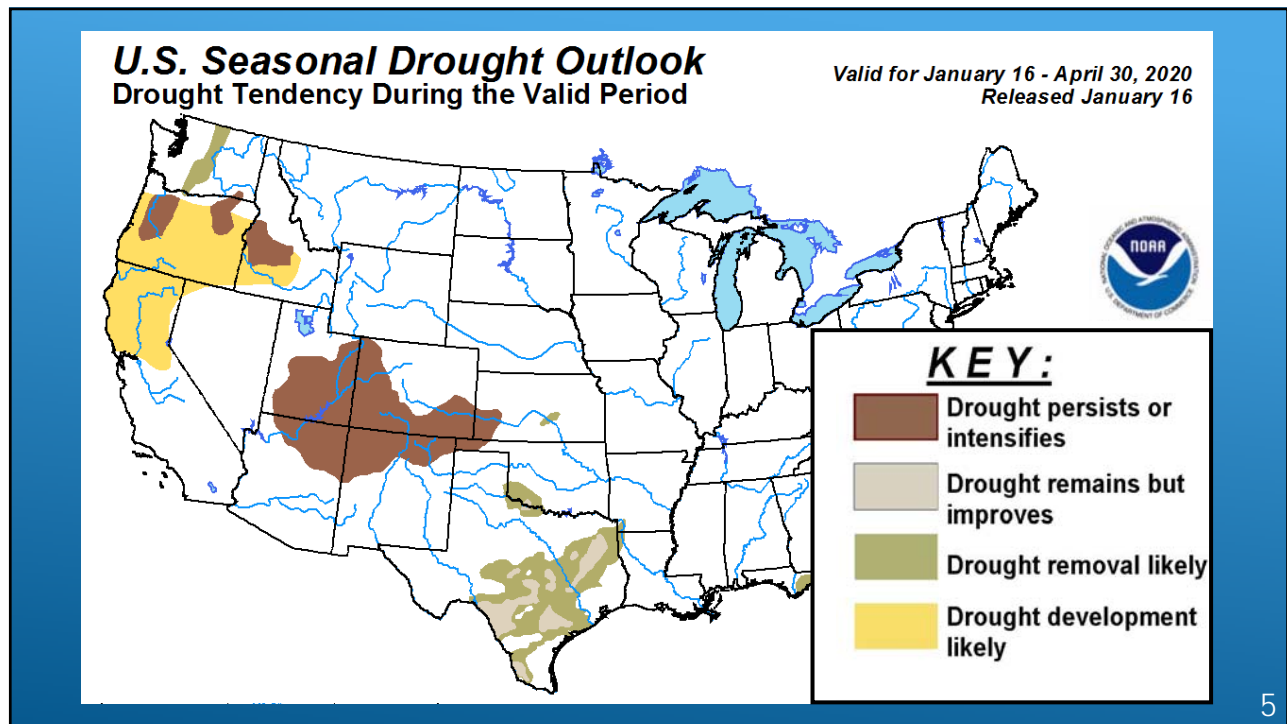
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## February – April 2020

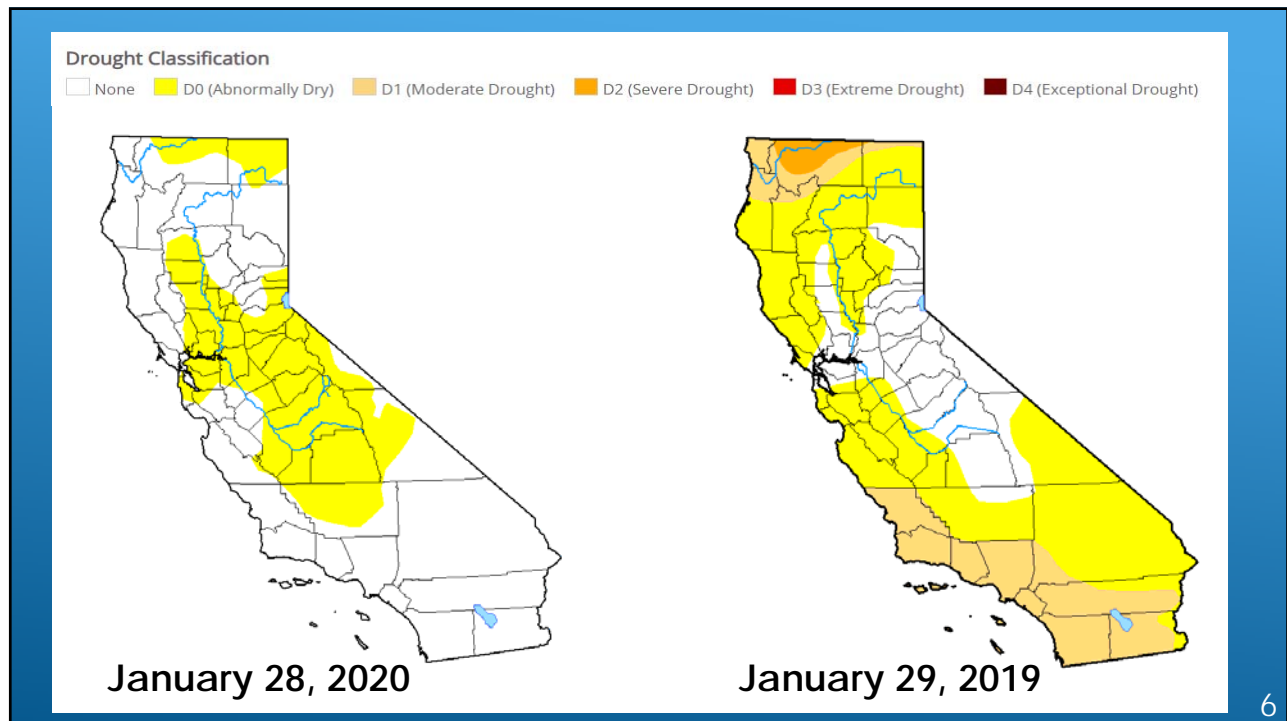


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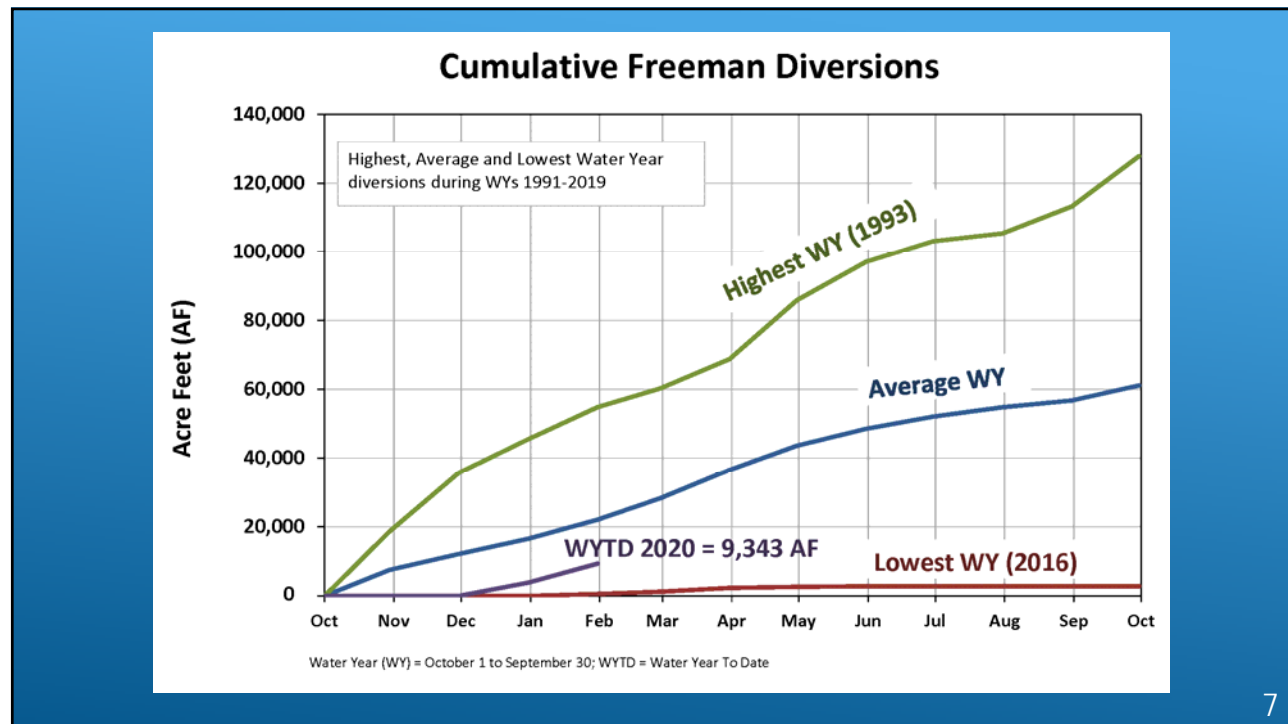
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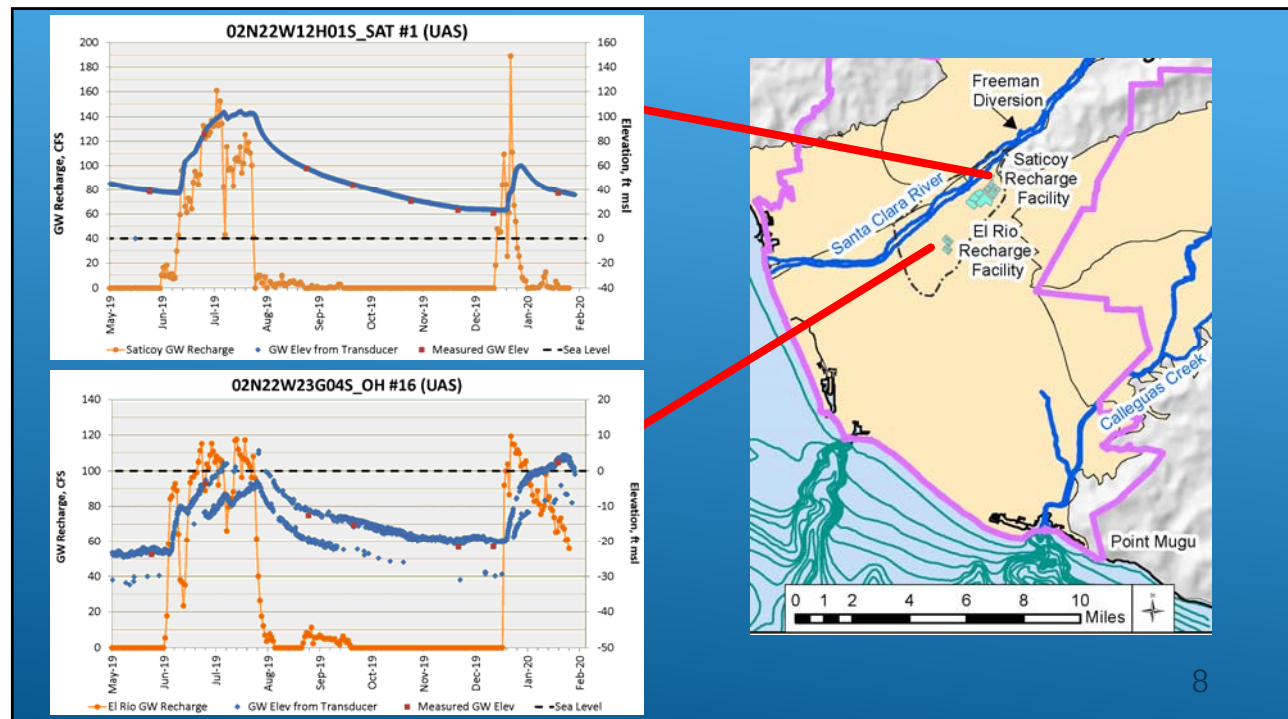
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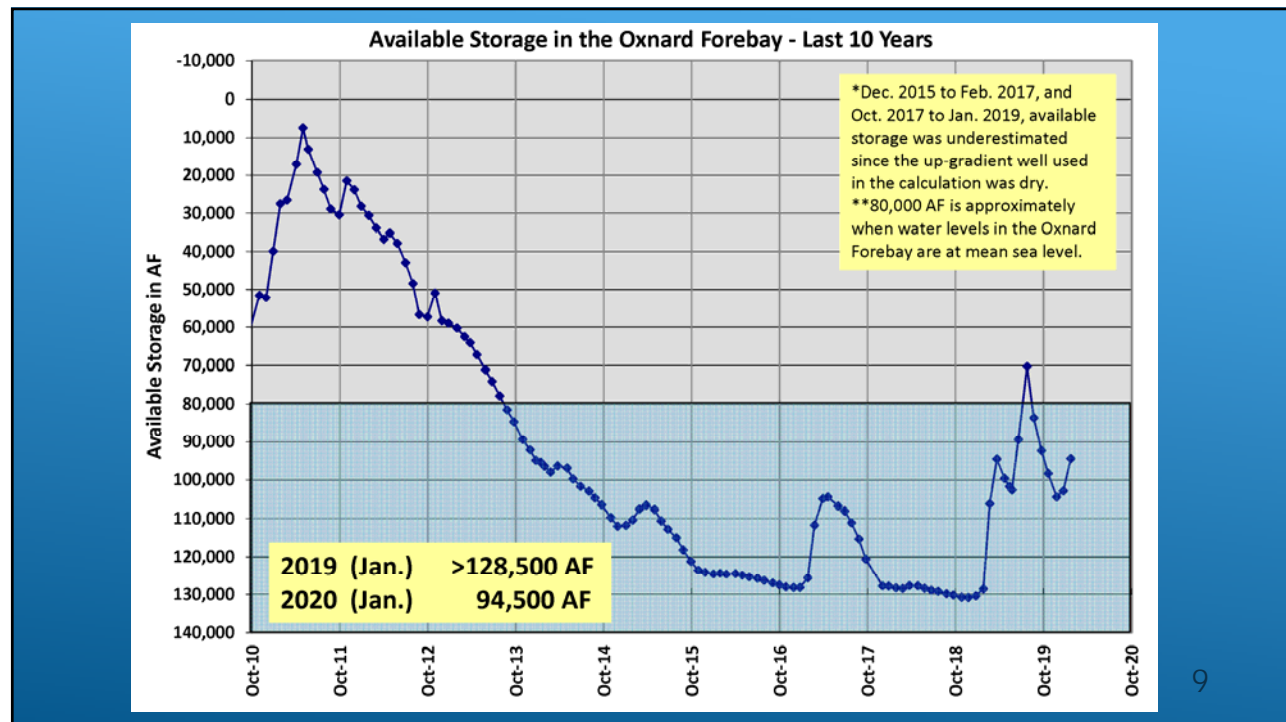


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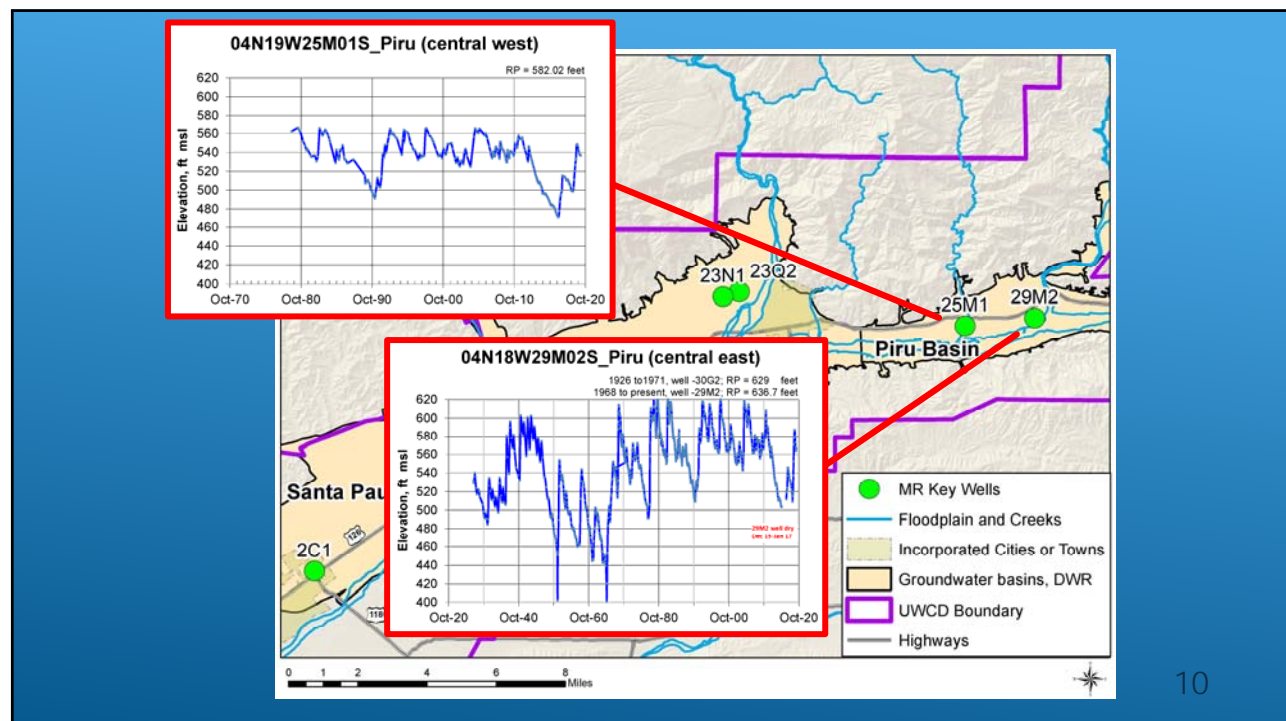


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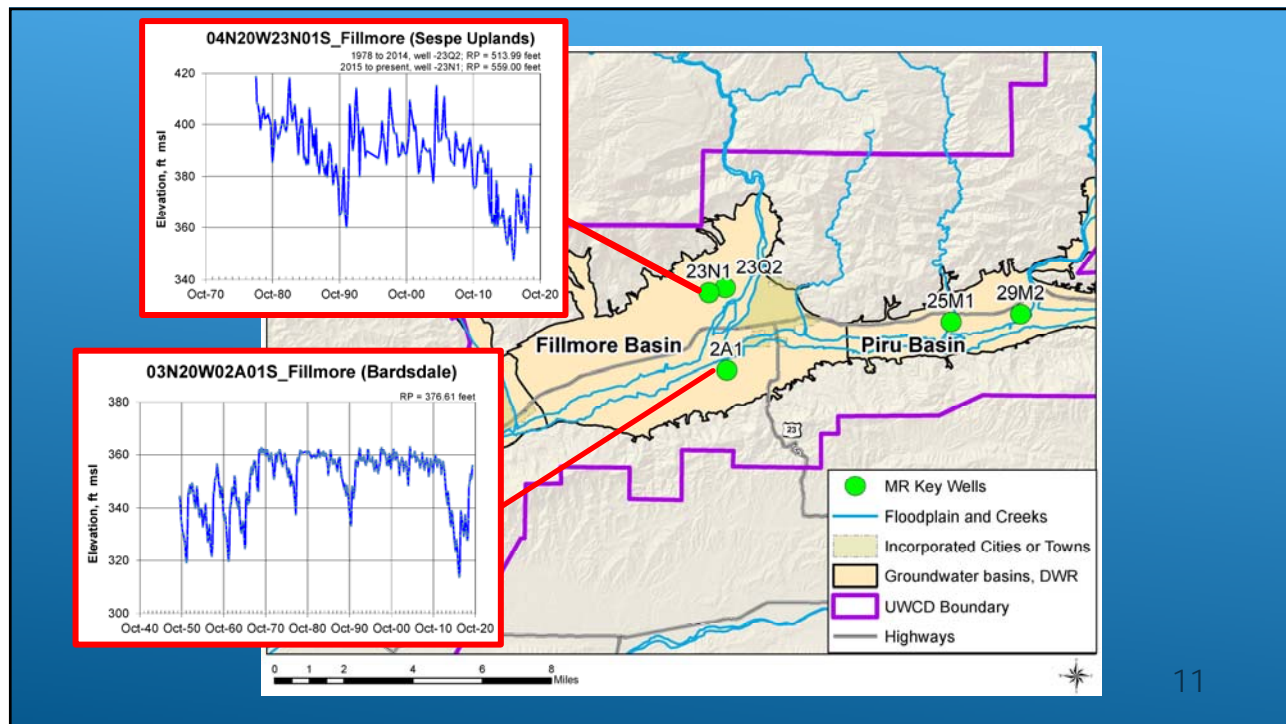


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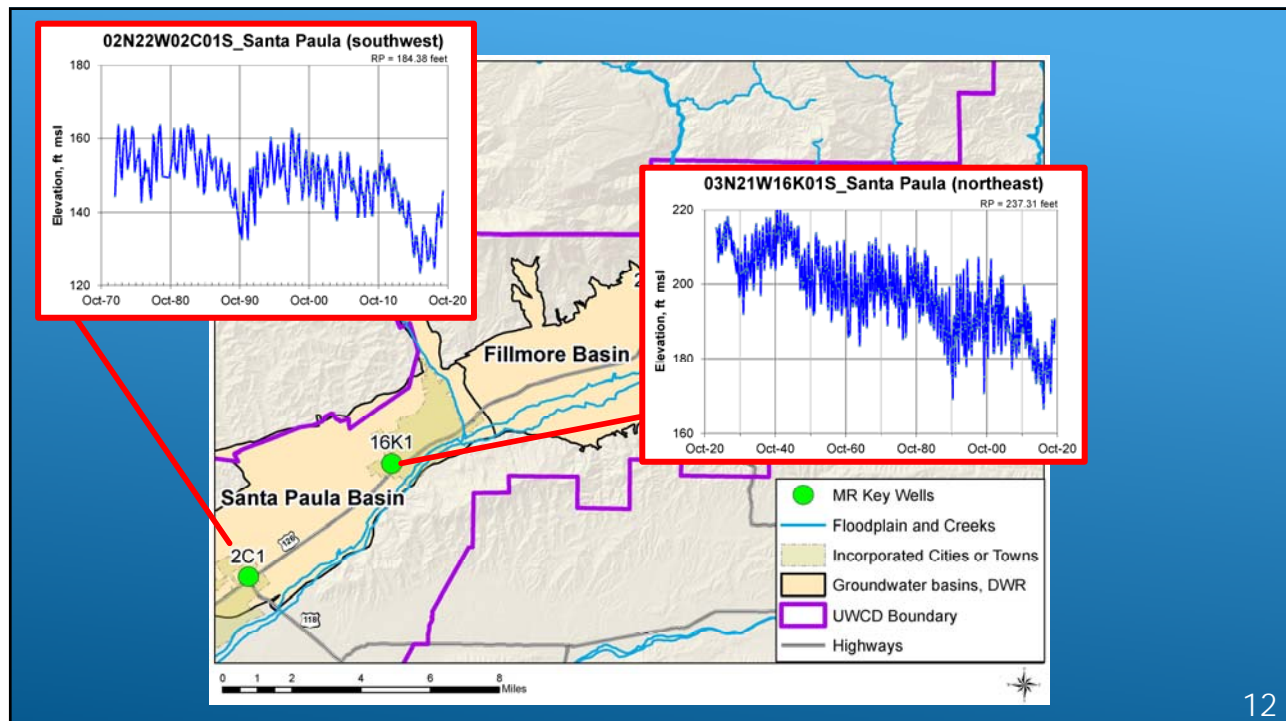


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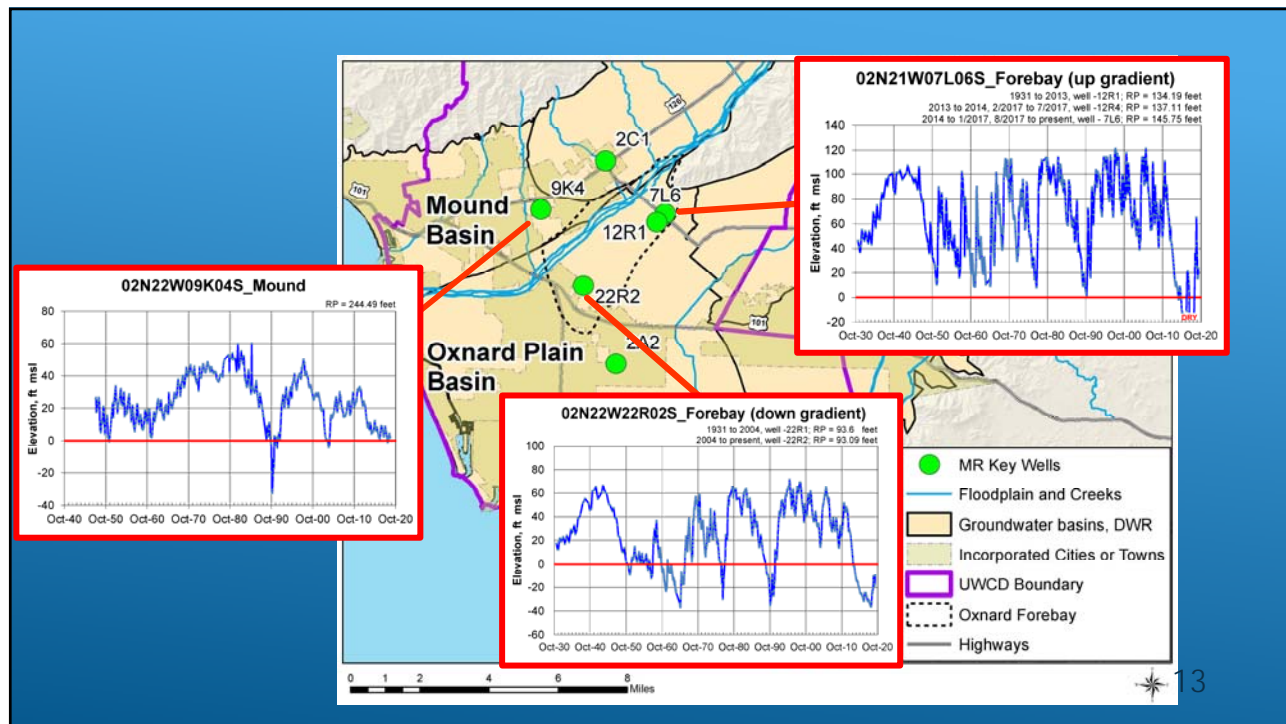




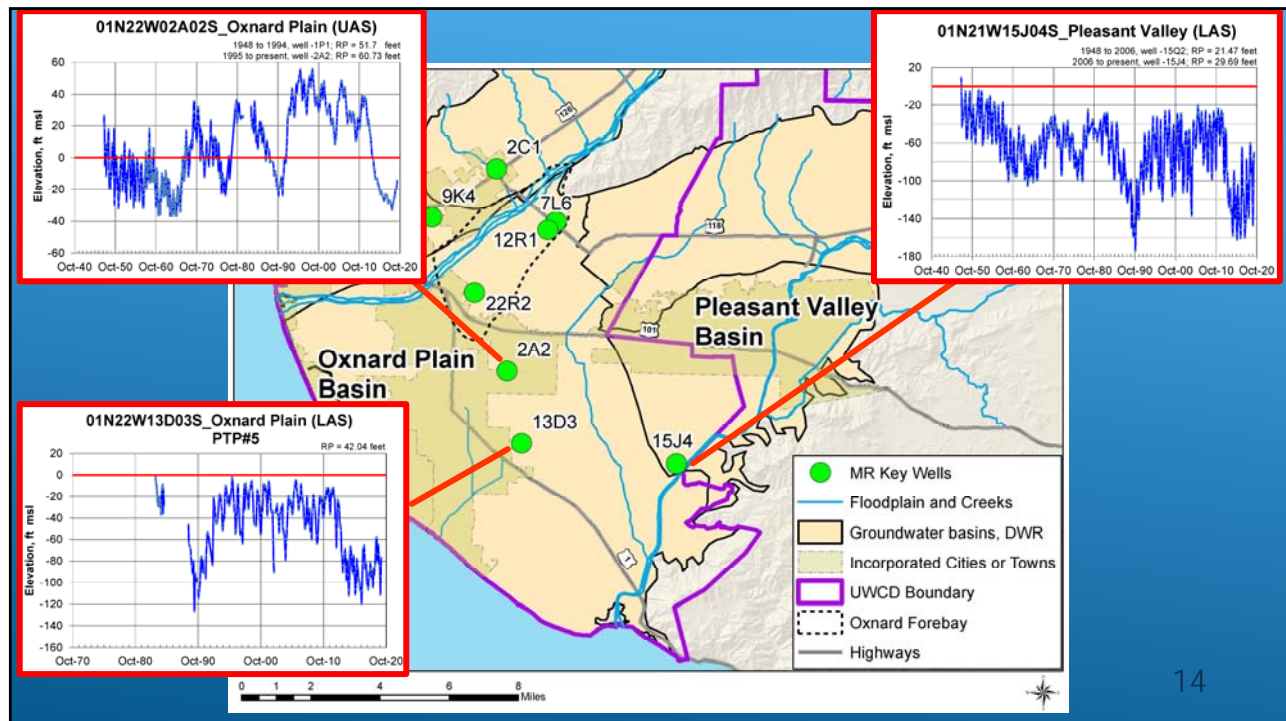
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## Update on 2019-2020 State Water Purchases and Exchanges



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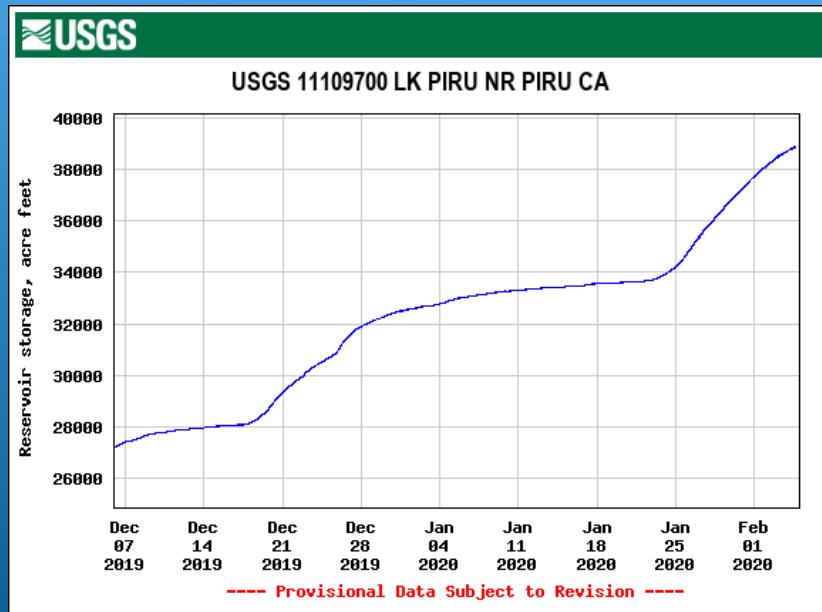
### 2019-2020 State Water Purchases and Exchanges

Released from Pyramid to middle Piru Creek

	Water delivered in December (AF)	Water delivered in January (AF)	Water delivered in February (AF)	Total water released from Pyramid (AF)
UWCD Table A (Purchase)	0	2363	0	2363
City of Ventura (Transfer)	2150	1949	1526	5625
SCVWA (Exchange)	1000	0	0	1000
Total	3150	4312	1526	8988

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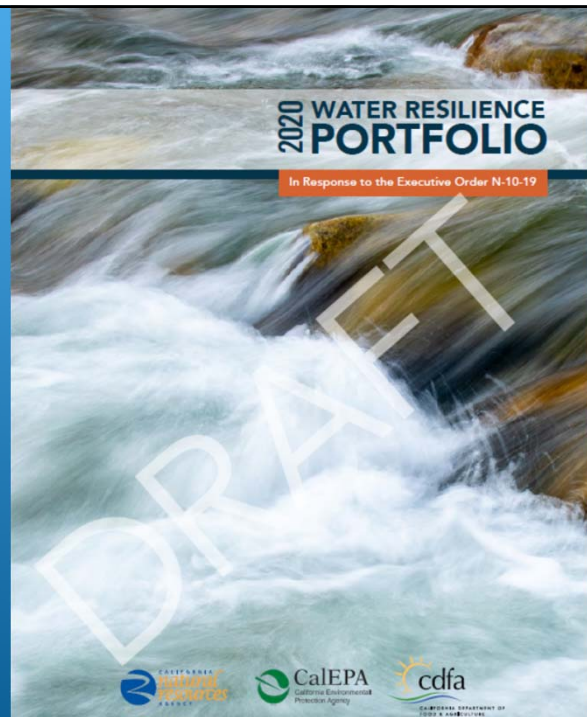


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#### 4. CALIFORNIA'S 2020 WATER RESILIENCE PORTFOLIO

##### Overall goal:

**"Harness the best of science, engineering, and innovation to prepare for what's ahead and support long-term water resilience and ecosystem health."**



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## THE STATE IS TAKING RESPONSIBILITY FOR:

- Empowering local and regional entities to meet their unique challenges.
- Providing tools and leadership.
- Advancing projects of statewide scale and importance (e.g., Delta tunnel).
- Helping to address challenges that are beyond the scope of any region.

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## SEVEN PRINCIPLES ON WHICH THE PORTFOLIO IS BASED:

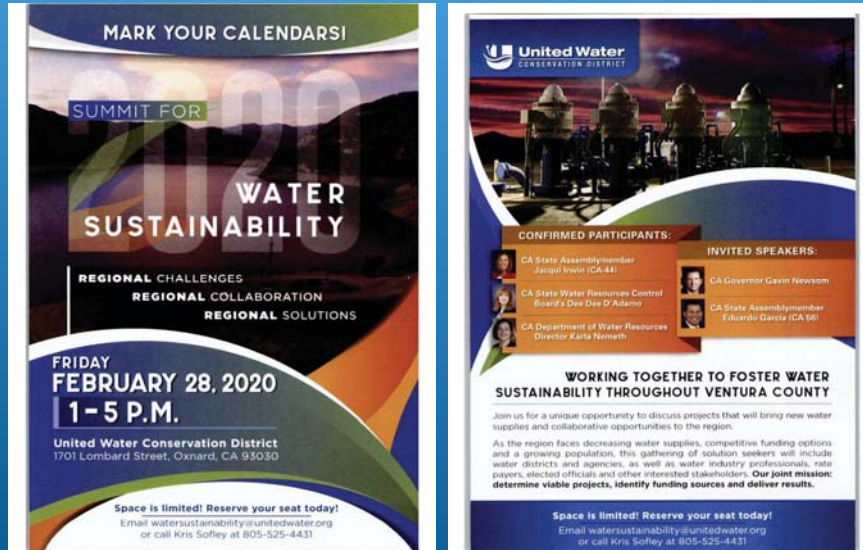
1. Prioritize multi-benefit approaches (*e.g., The Summit*)
2. Utilize natural infrastructure such as forests and floodplains (*e.g., forebay recharge*)
3. Embrace innovation and new technologies (*e.g., coastal brackish water pump and desal*)
4. Encourage regional approaches (*e.g., regional optimization plan*)
5. Incorporate successful approaches from other parts of the world
6. Integrate investments, policies, and programs across state government (*e.g., grants*)
7. Strengthen partnerships with governmental agencies and other stakeholders (*e.g., outreach and coordination*)

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## UNITED'S GOALS AND APPROACHES OVERLAP WITH THOSE OF THE RESILIENCY PORTFOLIO



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*"You have set yourselves a difficult task, but you will succeed if you persevere..."*

Helen Keller

## 5.5 SGMA UPDATE

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## FCGMA GSP Schedule Update

- December 13, 2019: GSPs adopted for **Oxnard, Pleasant Valley, and Las Posas Valley Basins**
- January 13, 2020: GSPs submitted to DWR
- January 31, 2020: GSPs posted to DWR web site
  - Initial "Completeness review" completed by DWR
- April 15, 2020: Due date for public comments to DWR
  - Neither DWR nor GSA required to respond to comments

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## Summary of Recent BoD Activities:

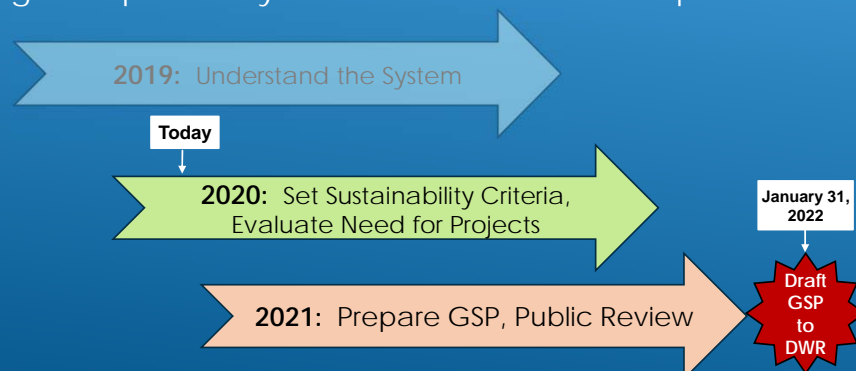
- Contracted Dudek for SGMA annual reporting
- Resumed work on Las Posas basin allocation plan
- Began developing post-GSP work plan:
  - Replace TAG, fill data gaps, develop projects, consider replenishment fees
- 2<sup>nd</sup> quarter budget performance
  - Currently in deficit, considering raising extraction fees
- Ongoing legal efforts
  - Las Posas Valley basin adjudication
  - City of Oxnard challenge to OPV allocation ordinance

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## Fillmore-Piru Basins GSA

- ▶ United's groundwater flow model expansion complete, now calibrating model
- ▶ Board approved outreach and communication strategies approach
  - ▶ A stakeholder outreach meeting is scheduled for April 2
- ▶ Tim Holmgren replaced Lynn Edmonds as Fillmore representative on BoD

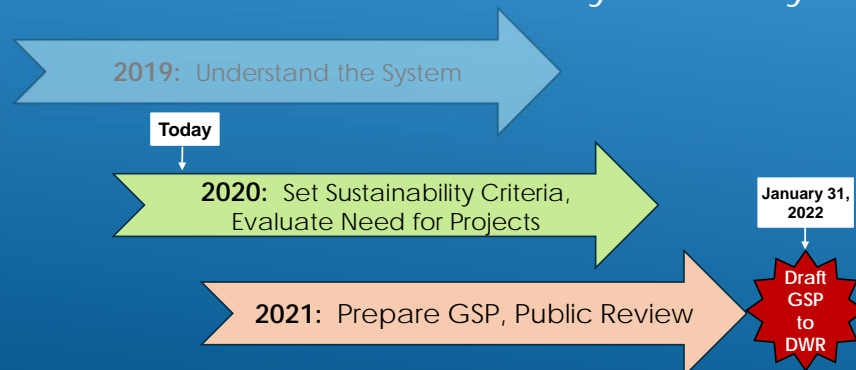


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## Mound Basin GSA

- ▶ United staff preparing text, figures, and tables for GSP
  - ▶ Hydrogeologic setting and groundwater conditions
- ▶ Draft isotope report being revised in response to comments from United staff and Bryan Bondy



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## Santa Paula Basin TAC

- ▶ 2018 Annual Report complete
  - ▶ Preparing annual SGMA on-line submittal
- ▶ Starting 2019 Annual Report
  - ▶ TAC members would like to see annual reports completed earlier in the year
  - ▶ Interested in water-year reporting
- ▶ Next meeting on February 27 (not public)

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## Water Year Reporting

- ▶ SGMA requires water year reporting for basins once GSPs have been submitted
- ▶ First annual updates for GSAs due April 1, following January 31 submittals
- ▶ FCGMA begins water year reporting period this fall
- ▶ DWR encourages GSAs to adopt water year reporting practices
  - ▶ Also provides guidelines for conversion of other reporting periods to water year

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