



Contract Number

**23-580**

SAP Number

## San Bernardino County Flood Control District

<b>Department Contract Representative</b>	Michael Fam, P.E.
<b>Telephone Number</b>	(909) 387-8121
<b>Contractor</b>	San Bernardino Valley Municipal Water District
<b>Contractor Representative</b>	Paul R. Kielhold, President, Board of Directors
<b>Telephone Number</b>	(909) 387-9200
<b>Contract Term</b>	
<b>Original Contract Amount</b>	
<b>Amendment Amount</b>	
<b>Total Contract Amount</b>	
<b>Cost Center</b>	

### Briefly describe the general nature of the contract:

*The San Bernardino County Flood Control District has developed the Joint Groundwater Recharge and Facilities Planning Agreement with the San Bernardino Valley Municipal Water District for a twenty-year term from June 27, 2023, through June 26, 2043, followed by ten automatic one year renewal terms.*

#### FOR COUNTY USE ONLY

Approved as to Legal Form

**SEE ATTACHED**

Sophie A. Curtis, Deputy County Counsel

Date \_\_\_\_\_

Reviewed for Contract Compliance

Andy Silao, P.E.

Date **6/1/2023**

Reviewed/Approved by District

Brendon Biggs, Chief Flood Control Engineer

Date **6/1/23**

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



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#### FOR COUNTY USE ONLY

Approved as to Legal Form

► *Sophie Curtis*

Sophie A. Curtis, Deputy County Counsel

Date May 18, 2023

Reviewed for Contract Compliance

► Andy Silao, P.E.

Date \_\_\_\_\_

Reviewed/Approved by District

► Brendon Biggs, Chief Flood Control Engineer

Date \_\_\_\_\_

## JOINT GROUNDWATER RECHARGE AND FACILITIES PLANNING AGREEMENT

This Joint Groundwater Recharge and Facilities Planning Agreement (“**Agreement**”) is entered into and effective as of this 13 day of June, 2023 (“**Effective Date**”), by and between the San Bernardino County Flood Control District (“**Flood Control District**”) and the San Bernardino Valley Municipal Water District (“**San Bernardino Valley**”). Flood Control District and San Bernardino Valley may be referred to herein individually as a “**Party**” or together, as the “**Parties**.”

### RECITALS

**WHEREAS**, the Flood Control District was created by the San Bernardino County Flood Control Act of 1939 (the “**Act**”), found in Chapter 43 of the Water Code Appendix, with the statutory purpose to “provide for the control of the flood and storm waters of the Flood Control District” and “to conserve such waters for beneficial and useful purposes” by capturing, spreading, storing, retaining, and through percolation; and

**WHEREAS**, the Act also empowers the Flood Control District to spread, store, retain and percolate such waters into groundwater basins for the common benefit of the Flood Control District; and

**WHEREAS**, the Flood Control District owns a series of flood control detention basins, drainage channels, and associated appurtenances located within its service area (“**Flood Control District Facilities**”) that are used to temporarily detain water from rain events that could cause flooding (“**Flood Control Activities**”),

**WHEREAS**, said detention basins, drainage channels, and associated appurtenances can also be used, when they are not needed for flood control, for groundwater water transport, capture, spreading and recharge (“**Recharge Activities**”); and

**WHEREAS**, San Bernardino Valley was formed in 1954 as a regional agency for the purpose of planning a long-range water supply for the San Bernardino Valley, importing water into its service area from the State Water Project, and managing groundwater storage within its boundaries; and

**WHEREAS**, both the Flood Control District and San Bernardino Valley rely on revenues collected from property taxes on properties located within the Parties’ common service area for the common and mutual benefit of such properties; and

**WHEREAS**, San Bernardino Valley estimates that its ratepayers will, over the period from 1960 to 2085, have invested over \$1 billion on State Water Project payments and on facilities constructed to convey supplemental water for direct delivery and for recharge of the groundwater basins in San Bernardino Valley’s service area; and

**WHEREAS**, the use of the Foothill Pipeline, Devil Canyon-Azusa Pipeline, East Branch Extension Pipeline, as well as other facilities owned or operated by San Bernardino Valley for

the purpose of groundwater recharge, is of benefit to San Bernardino Valley's customers who reside in the San Bernardino Valley and within the Flood Control District's Zones 2 and 3; and

**WHEREAS**, Flood Control District provided San Bernardino Valley with a temporary construction easement and encroachment permit for a portion of San Bernardino Valley's Foothill Pipeline which was inadvertently not granted to San Bernardino Valley as an easement; and

**WHEREAS**, Flood Control District and San Bernardino Valley have a long history of cooperation dating back to an agreement dated September 25, 1972 ("**1972 Agreement**"), whereby Flood Control District allowed San Bernardino Valley to use Flood Control District Facilities for groundwater recharge in the San Bernardino Basin and provided San Bernardino Valley with easements for the construction and operation of facilities relating to water transmission, water capture, spreading, and recharge; and

**WHEREAS**, for approximately 50 years, the Parties have worked cooperatively to utilize the Flood Control District Facilities and certain improvements owned and operated by San Bernardino Valley ("**Existing Recharge Improvements**") for groundwater recharge when Flood Control District Facilities are not needed for flood control and when the use of such basins does not otherwise compromise the District's mission of protecting life and property from the significant risks posed by flooding; and

**WHEREAS**, during this 50 year period, San Bernardino Valley has paid all of the associated costs for the Existing Recharge Improvements, and the Parties seamlessly coordinated this effort for the benefit of the citizens of the San Bernardino Valley; and

**WHEREAS**, Recharge Activities, related environmental permits and mitigation, and project funding collaboration will likely reduce Flood Control District's costs due to the reduction or elimination of duplicative Flood Control District's activities thereby generating a Flood Control District benefit; and

**WHEREAS**, San Bernardino Valley has obtained permits from necessary regulating agencies to routinely clear and maintain the Waterman Detention Basins; and

**WHEREAS**, San Bernardino Valley desires to construct certain recharge improvements, as approved by Flood Control District to increase Recharge Activities at Flood Control District Facilities; and

**WHEREAS**, the Parties are both signatories to the Upper Santa Ana River Watershed Integrated Regional Watershed Management Plan which establishes goals and objectives for water management, including groundwater recharge in various locations which include Flood Control District detention basins; and

**WHEREAS**, the increased recharge that the Parties desire will help meet current and future demands for water among their shared constituents; and



**WHEREAS**, water conservation and recharge are part of the Flood Control District's missions, as set forth in the San Bernardino County Flood Control District Act (Cal. Water Code App. § 43-1 *et seq.*); and

**WHEREAS**, as of the Effective Date of this Agreement, the Flood Control District has determined that the Recharge Activities contemplated under this Agreement are consistent with its secondary missions; and

**WHEREAS**, as of the Effective Date of this Agreement, the proposed Recharge Activities, in conjunction with the defense, indemnity and other provisions of this Agreement, have been determined by the Flood Control District not to interfere with Flood Control District's statutory objectives and purposes to provide for the control of flood and storm waters and to safeguard the safety of public health and property; and

**WHEREAS**, in 2013, the Parties entered into a ten year Planning Memorandum of Understanding (Agreement No. 13-608; the "**2013 Agreement**") to outline the cooperative manner in which the Parties would work together to identify and analyze the suitability of Flood Control District Facilities for recharge purposes; and

**WHEREAS**, the 2013 Agreement expires in 2023 and the Parties wish to terminate and supersede the 2013 Agreement with this Agreement; and

**WHEREAS**, the Parties desire to continue use of Flood Control District Facilities and Existing Recharge Improvements for Recharge Activities and to collaborate to develop mutually beneficial approaches and potential future facilities for beneficial water replenishment operations, while also prioritizing the use of Flood Control District Facilities to maintain adequate flood protection for the safety and protection of the public; and

**WHEREAS**, the Parties now wish to enter into this Agreement to allow San Bernardino Valley non-exclusive access to develop, construct, operate, and maintain Flood Control District Facilities, Existing Recharge Improvements, and potential future recharge improvements necessary to conduct Recharge Activities as described herein and as permitted by the Flood Control District; and

**WHEREAS**, as to Cactus Basins, the Parties acknowledge that San Bernardino County ("**County**") and Flood Control District have identified some risks to the County, Flood Control District, and other unrelated entities arising out of recharge in Cactus Basins such that there will not be recharge at this time, and if recharge were to occur, it will be subject to a separate agreement; and

**WHEREAS**, San Bernardino Valley agrees to indemnify Flood Control District and County pursuant to indemnification and insurance provisions that adequately protect Flood Control District and County from any and all claims, actions, losses, and damages arising from use of Flood Control District Facilities utilized for Recharge Activities; and

**WHEREAS**, this Agreement establishes a framework for the joint planning and development of Recharge Activities and future recharge improvements, and allows San Bernardino Valley non-exclusive access to the Flood Control District Facilities for Recharge Activities as permitted by Flood Control District; and

**WHEREAS**, the Flood Control District and San Bernardino Valley shall enter into separate operations and maintenance agreements (“**O&M Agreements**”) and related permits for the use of Flood Control Facilities for Recharge Activities to further define the roles and responsibilities of the parties in operating and maintaining the Flood Control Facilities and recharge improvements pursuant to this Agreement; and

**WHEREAS**, as provided herein, this Agreement does not authorize nor guarantee any specific project, and the Parties will comply with the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.) (“**CEQA**”) prior to approving any specific project; and

**WHEREAS**, the Parties wish for this Agreement to terminate and supersede the 1972 Agreement and the 2013 Agreement, with the exception of the easements granted to San Bernardino Valley under the 1972 Agreement; and

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the matters recited and the mutual promises, covenants, and conditions set forth in this Agreement, the Parties hereby agree as follows:

1. **Recitals.** The above recitals are hereby incorporated into this Agreement as if fully set forth herein.
2. **Prior Agreements.** This Agreement supersedes the 1972 Agreement and the 2013 Agreement between the Parties, which shall be mutually terminated as of the Effective Date of this Agreement. The easements granted under the 1972 Agreement are attached hereto as Attachment 1 and shall not be terminated.
  - a. In 1972, Flood Control District provided San Bernardino Valley with a temporary construction easement and encroachment permit for a portion of San Bernardino Valley’s Foothill Pipeline which was inadvertently not granted to San Bernardino Valley as a permanent easement. Flood Control District and San Bernardino Valley agree to work together on a permanent easement. Additionally, in 1972, the Parties entered into a Common Use Agreement (“**CUA**”), attached hereto as Exhibit C to Attachment 1, which references the 1972 Agreement in Section 2 of the CUA. The Parties hereby amend Section 2 of the CUA to delete the reference to the 1972 Agreement and replace the reference to this Agreement.
3. **Term.** The initial term of this Agreement shall commence on \_\_\_\_\_, 2023 and expire on \_\_\_\_\_, 2043 (“**Initial Term**”). Thereafter, beginning on \_\_\_\_\_, 2043, and on each anniversary date thereafter, the term of this Agreement will be extended automatically for one (1) additional year (“**Extended Term**”), so as to

have a rolling term of ten (10) additional years. At least four (4) months prior to the expiration of the Initial Term or any Extended Term, the Parties shall meet and confer to review this Agreement and determine whether any provision of the Agreement has been breached or violated or otherwise requires amendment. The Parties shall make a good faith effort to resolve any potential disagreements before taking action to terminate this Agreement. Either Party may terminate any automatic renewal and extension so long as such termination action is undertaken by the governing board of the terminating Party and is not arbitrary or unreasonable. The terminating Party shall give the other party written notice of nonrenewal no later than sixty (60) days prior to the automatic one (1) year renewal date. Any such notice, properly given, shall serve to terminate the automatic one (1) year renewal and extension provision only, and this Agreement shall remain in effect for the balance of the term then outstanding to allow for the winding down of Water Recharge Activities. In the event that either Party exercises its right to terminate the automatic renewal and extension provision under this paragraph, the Parties may subsequently reinstate the automatic renewal and extension provision by mutual written agreement.

4. **Flood Control Priority.**

- a. **Priorities.** San Bernardino Valley's access to and use of the Flood Control District Facilities for Recharge Activities is, and shall be, subordinate to the flood control and protection purposes of Flood Control District, and shall in no way impair or conflict with Flood Control District's Flood Control Activities. Any and all Recharge Activities at Flood Control Facilities shall be consistent with the Flood Control District's systemwide maintenance permit and all other applicable regulatory permits issued to the Flood Control District.
- b. **Flood Control District Control.** To protect property and public safety and to maintain the full flood control capacity of the Flood Control District Facilities, Flood Control District shall have sole discretionary authority to reduce, suspend or terminate Recharge Activities upon a determination by the Flood Control District's Chief Flood Control Engineer, or his or her designee, that Recharge Activities at Flood Control District Facilities are incompatible with the Flood Control District's Flood Control Activities.
- c. **No Known Present Conflict.** As of the Effective Date of this Agreement, the Parties do not anticipate that Recharge Activities will conflict with District's flood control activities or the operation of any Flood Control District Facilities.

5. **Facilities and Sources of Water.**

- a. **Flood Control District Facilities.** The Flood Control District Facilities subject to this Agreement are real and personal property owned by in the vicinity of the following facilities:
  - i. East Twin Basins
  - ii. Lynwood Basins
  - iii. Oak Glen Basins
  - iv. Sweetwater Basins
  - v. Waterman Basins
  - vi. Wildwood Basins
  - vii. Wilson Basins
  - viii. Natural and improved channels, streams, and rivers, as identified in an O&M Agreement(s) and Flood Control District permit.
- b. **Flood Control District Facilities – Cactus Basins.** The Parties acknowledge the County and Flood Control District have identified some risks to the County, Flood Control District, and other unrelated entities arising out of recharge in Cactus Basins. At this time, there will not be recharge in Cactus Basins. The risks identified by the County and Flood Control District are not exhaustive, some are unknown, and could fluctuate over time. The County, Flood Control District and San Bernardino Valley will continue to consider strategies and alternatives to address the risks and that if recharge were to occur, it will be subject to a separate agreement mutually agreed upon by the Parties, that may include an implementation and adaptive management plan, or other conditions. Nothing in this section shall be deemed a waiver of the County or Flood Control District's rights, nor agreement, acknowledgement, or consent to recharge in Cactus Basins.
- c. **Existing Recharge Improvements.** Existing Recharge Improvements are the existing equipment, facilities, and/or appurtenances that have been installed on or within Flood Control District Facilities that are owned and operated by San Bernardino Valley and described in Attachment 2.
- d. **Recharge Water Sources.** Water sources to be applied for Recharge Activities may include imported State Water Project water, recycled or reclaimed water, and/or diverted stormwater. All water made available for Recharge Activities shall be referred to herein as "Recharge Water."

6. **Mutual Use of Flood Control District Facilities and Existing Recharge Improvements for Recharge Activities.**

- a. **Mutual Use.** San Bernardino Valley and Flood Control District understand and consent to the mutual use of Flood Control District Facilities and Existing Recharge Improvements for Flood Control



Activities and Recharge Activities consistent with the priorities set forth in Section 4.

- i. Flood Control District will work cooperatively with San Bernardino Valley to maximize the quantity of water that can be used for Recharge Activities at Flood Control District Facilities, while maintaining or improving the protection of the public from the dangers of flooding.
  - ii. San Bernardino Valley shall provide to the Flood Control District all of the details associated with the proposed use of a Flood Control District Facility for Recharge Activities, including, but not limited to, any proposed operational plan and estimated amount and quality of Recharge Water.
  - iii. Flood Control District agrees to operate Flood Control District Facilities consistent with the applicable O&M Agreement and Flood Control District permit.
- b. **Operation & Maintenance.** The Parties shall enter into a separate agreement on the operation and maintenance of Flood Control District Facilities for Recharge Activities. Any such agreement shall be consistent with the priorities set forth in Section 4.
- i. San Bernardino Valley shall be responsible for obtaining, paying for and complying with all necessary encroachment permits, easements, water rights, and any other applicable permits, authorizations or approvals associated with the use of Flood Control District Facilities and Existing Recharge Improvements for Recharge Activities to the extent such activities are not covered by existing permits held or obtained by the Flood Control District. Any such permits or other approvals required by Flood Control District shall be consistent with and not additive of the terms of this Agreement.
  - ii. The Parties agree to cooperate to obtain any necessary regulatory permits and/or easements to facilitate the construction, operation, and maintenance required for conducting Recharge Activities at Flood Control District Facilities and Existing Recharge Improvements to the extent such activities are not covered by existing permits held or obtained by the Flood Control District. The Parties shall include each other as an agency that can perform work under regulatory permits or other approvals required for conducting Recharge Activities at Flood Control District Facilities and Existing Recharge Improvements. The Parties agree to cooperate in the shared pursuit and use of regulatory permits for

the mutual benefit of the Parties, to the extent possible, and without cost to each other.

- c. **Costs.** Within thirty (30) days of receipt of an invoice (which will be issued at least quarterly by the Flood Control District), San Bernardino Valley agrees to pay all costs that arise out of Recharge Activities at Flood Control District Facilities, including but not limited to regulatory costs and maintenance such as vector control, weed control, routine scarification and trash removal as agreed to by the Joint Implementation Committee described in Section 8 herein. Such San Bernardino Valley costs may include, but are not limited to, regulatory permitting costs, compliance costs, and enforcement costs imposed by third parties. Subject to availability and Flood Control District approval, San Bernardino Valley may contract and pay for Flood Control District staff to perform planned maintenance and/or construction activities.
  - d. **Insurance.** San Bernardino Valley shall secure and maintain throughout the term of the Agreement, including any extensions of the term of the Agreement, general liability insurance, workers' compensation, automobile insurance, and environmental impairment liability insurance to adequately cover the use of Flood Control District Facilities for Recharge Activities. All such insurance policies shall name the Flood Control District and County and their directors, managers, officers, employees, agents, and volunteers as additional named insured with respect to liabilities arising out of the performance of this Agreement.
7. **Joint Project Planning.** The Parties may jointly or separately explore, propose, or develop capital improvement projects for new facilities or major upgrades to Flood Control District Facilities and/or Existing Recharge Improvements that provide both new or enhanced opportunities for Flood Control Activities and/or Recharge Activities. Any projects to enhance Recharge Activities at Flood Control District Facilities shall be subject to review and approval by the Flood Control District.
- a. **Cost Sharing.** Subject to future review and approval, costs of any jointly planned capital improvement project shall be shared proportionally based on relative benefit to the Flood Control District and San Bernardino Valley; provided that the Parties together or separately may seek outside funding sources. The Parties agree to cooperate to obtain any necessary regulatory permits and/or easements to facilitate the construction, operation, and maintenance of improvement projects. All costs associated with improvements to Flood Control District Facilities to conduct Recharge Activities, including but not limited to design, engineering, and modeling costs, environmental permitting and compliance costs, and construction costs, shall be the responsibility of San Bernardino Valley.

8. **Joint Implementation Committee.** The Parties shall work cooperatively to maximize the benefits of ongoing and proposed Recharge Activities, while maintaining or improving the protection of the public from the dangers of flooding, through a Joint Implementation Committee (“**Committee**”) comprised of representatives and technical experts selected by each Party.
- a. The Committee will meet annually, or more frequently as needed, to:
    - i. Consider potential Recharge Activities and determine priorities to maximize Recharge Activities for the following year, consistent with Flood Control District purposes and approval;
    - ii. Plan long-term maintenance and improvements of Flood Control District Facilities and Existing Recharge Improvements to maximize Recharge Activities, and assess compliance requirements of the Flood Control District’s systemwide permit and other applicable regulatory permits, and a timeline to implement planning activities;
    - iii. Review proposed capital improvement project proposals to improve and enhance Recharge Activities; and
    - iv. Identify opportunities for increased Flood Control Activities or Recharge Activities, and/or specific potential joint projects that utilize Flood Control District Facilities and/or Existing Recharge Improvements.
  - b. The Committee shall consider the potential environmental effects of the proposed Recharge Activities, including but not limited to, an evaluation of the sources and quality of Recharge Water to be applied, and whether Recharge Activities will affect Flood Control Activity, introduce water quality pollutants or mobilize existing groundwater contamination, or will cause land subsidence, liquefaction, or seepage to low lying lands in any basin to be impacted by the recharge activities. The Parties acknowledge that San Bernardino Valley will be the agency primarily leading this evaluation, given its experience with groundwater storage and knowledge of the quality and sources of Recharge Water available for recharge. Flood Control District will independently review San Bernardino Valley’s evaluation. The Parties will act in good faith to evaluate the Recharge Activities. Nothing in this paragraph shall limit San Bernardino Valley’s defense and indemnity obligations contained in this Agreement.
  - c. Considering Flood Control District’s statutory purposes and San Bernardino Valley’s goals, the Committee will determine, on a case by case basis, which Party will be in charge of seeking permits for projects and which agency will be the “Lead Agency” for purposes of complying with CEQA.

9. **Indemnification.**

- a. **San Bernardino Valley's Duty.** To the fullest extent permitted by law, San Bernardino Valley shall indemnify, defend (at San Bernardino Valley's sole cost and expense and with legal counsel approved by Flood Control District, which approval shall not be unreasonably withheld), protect, and hold harmless Flood Control District, San Bernardino County, and all of their authorized representatives, designees, officers, employees, consultants, agents, volunteers, successors, and assigns, (collectively, the "Indemnified Parties"), from and against any and all claims, demands, obligations, damages, actions, losses, liabilities, costs, and expenses of every kind and nature whatsoever (individually, a "Claim," collectively, "Claims") which may arise from or in any manner related (directly or indirectly) to this Agreement (including, without limitation, a release or threatened release of any hazardous substance or hazardous waste into the environment, land subsidence, liquefaction, seepage to low lying lands, and introduction and/or mobilization of contamination or pollutants in groundwater) or San Bernardino Valley's presence or activities conducted in Flood Control District Facilities regardless of any active or passive negligence or strict liability of an Indemnified Party. As used herein, the phrases "contamination," "pollutants," "hazardous substance," and "hazardous waste" shall coincide with the broadest definition thereof contained in any applicable federal or state laws. Notwithstanding the foregoing, nothing herein shall be construed to require San Bernardino Valley to indemnify any Indemnified Party from any Claim arising from the sole or gross negligence, intentional acts, or willful misconduct of the Indemnified Parties with respect to the operation and maintenance of the Flood Control District Facilities.
- b. **Separate Liability/No Limitation.** San Bernardino Valley's liability for indemnification hereunder is in addition to any liability San Bernardino Valley may have to Flood Control District and County for a breach by San Bernardino Valley of any of the provisions of this Agreement. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit San Bernardino Valley's indemnification and defense obligations or other liability hereunder.
- c. **Survival.** This provision shall survive the termination of any other agreement between San Bernardino Valley and Flood Control District. San Bernardino Valley's obligations to indemnify and to defend Indemnified Parties pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement until such time as any action against the Indemnified Parties for such matter indemnified hereunder is fully and finally resolved or barred by the applicable statute of limitations or statute of repose.



- d. **Separate Agreement.** Notwithstanding anything to the contrary herein, including but not limited to, the indemnity obligations set forth in Section 9(a) above, the Parties may adopt different, superseding indemnity provisions in a separate agreement to address the specific risks and liabilities applicable to recharge in a particular basin, such as the Cactus Basins as set forth in Section 5(b).

## 10. General Provisions

- a. **Early Termination.** Either Party may terminate this Agreement prior to its expiration date for cause, *provided* that it has issued 60-day written notice pursuant to Section 10.o, and opportunity to cure to the other Party prior to termination.
- b. **Non-Exclusive Agreement.** Nothing in this Agreement shall prevent either Party from working cooperatively with other individuals, public agencies, or private organizations to improve flood protection or groundwater recharge within that Party's respective jurisdiction. San Bernardino Valley may enter into separate agreements with other water agencies under which such agencies shall utilize the Recharge Improvements for recharge into the Recharge Area within the Flood Control District Facilities. District shall not be a party to such agreements and shall not be liable to any third parties, such as the water agencies, in the event that the District exercises its options to reduce, suspend, or terminate under this Agreement.
- c. **Authority.** Each signatory of this Agreement represents that he/she is authorized to execute this Agreement on behalf of the Party for which he/she signs. Each Party represents that it has legal authority to enter into this Agreement and to perform all obligations under the Agreement.
- d. **Jurisdiction and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, except for its conflicts of law rules. Any suit, action, or proceeding brought under the scope of this Agreement shall be brought and maintained to the extent allowed by law in the County of San Bernardino, California.
- e. **Construction and Interpretation.** This Agreement may not be construed for or against any Party by reason of the authorship or alleged authorship of any provision. The paragraph headings are for ease of reference only and shall not be used in constructing or interpreting this Agreement. As used in this Agreement, the phrase "including but not limited to" and similar language is meant to signal the Parties' intent that the listed item(s) should not be construed as limiting under the principle of *ejusdem generis* or otherwise.
- f. **Entire Agreement.** This Agreement contains the entire understanding between the Parties relating to the rights created herein. All prior or contemporaneous drafts, agreements, understandings, representations, statements, oral or written, are merged into this Agreement and shall be of no further force or effect.

- g. **Amendment.** No amendment to this Agreement will be effective unless it is in writing and is signed by each of the Parties to this Agreement.
- h. **Attorney's Fees and Costs.** Regardless of whether it is the prevailing party in any litigation or other action to enforce or interpret this Agreement, each Party shall bear its own attorneys' fees, costs of suit, and other necessary disbursements. This paragraph shall not apply to the costs or attorneys' fees relative to the indemnification provisions of Section 9.
- i. **Necessary Actions.** Each Party agrees to execute and deliver additional documents and instruments and to take any additional actions as may be reasonably required to carry out the purposes of this Agreement.
- j. **Force Majeure.** The failure of either party to perform any obligation otherwise due solely as a result of (a) governmental action, laws, orders, regulations, directions or requests, or (b) as a result of events, such as war, acts of public enemies, strikes or other labor disturbances, fires, floods, acts of God or any causes of like kind beyond the reasonable control of such party and not otherwise contemplated in this Agreement (collectively referred to as "Force Majeure"), is excused for so long as such Force Majeure exists or until the parties agree to terminate this Agreement.
- k. **Third Party Beneficiaries.** This Agreement shall not create any right or interest in any non-party or in any member of the public as a third-party beneficiary.
- l. **No Employment Relationship Created.** It is agreed that in the performance of the services by each Party to this Agreement, each Party and their officials, employees, and agents, shall act and be independent contractors of the other Party, and shall not become or act as an agent or employee of the other Party, and shall obtain no rights to any benefits which may accrue to employees of the other Party.
- m. **Severability.** No waiver by either Party of any provision of this Agreement shall be deemed a waiver of any other provision of this Agreement or of any subsequent breach by the other Party of the same provision. If any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.
- n. **Counterparts.** The Parties agree that this Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which together shall constitute one and the same instrument, and that a photocopy or facsimile may serve as an original. If this Agreement is executed in counterparts, no signatory hereto shall be bound until both the parties have fully executed a counterpart of this Agreement. The Parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF, or other email transmission), which signature shall be binding on the party whose name is contained therein. Each Party providing an electronic

signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

- o. **Notices.** All notices, requests, demands, or other communications required or permitted under this Agreement shall be in writing and, except as otherwise provided herein, shall be effective upon personal delivery or three days after deposit in the United States mail, registered or certified, with first class postage fully prepaid, addressed as follows:

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

Chief Flood Control Engineer  
San Bernardino County Flood Control District  
825 East Third Street  
San Bernardino, California 92415  
Telephone: (909) 387-7906  
Facsimile: (909) 387-7911

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

General Manager  
San Bernardino Valley Municipal Water District  
380 East Vanderbilt Way  
San Bernardino, California 92408  
Telephone: (909) 387-9200  
Facsimile: (909) 387-9247

- p. **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers or representatives as of the last day and year appearing below.

-----Signatures on Following Page -----

**SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT**

By: Paul R. Kielhold  
Paul R. Kielhold,  
President, Board of Directors

Date: 5/22/23

ATTEST:

By: [Signature]  
Jose Macedo,  
Clerk of the Board

APPROVED AS TO FORM:

By: [Signature]  
Meredith E. Nikkel,  
San Bernardino Valley Municipal  
Water District Special Counsel

Date: 5-26-2023

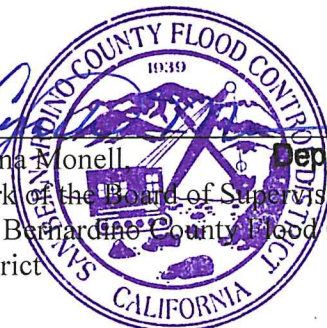
**SAN BERNARDINO FLOOD CONTROL  
DISTRICT**

By: Dawn Rowe  
Dawn Rowe, Chair of the Board of  
Supervisors of the San Bernardino  
County Flood Control District

Date: JUN 13 2023

SIGNED AND CERTIFIED THAT A COPY  
OF THIS CONTRACT HAS BEEN  
DELIVERED TO THE CHAIRMAN OF  
THE BOARD

By: [Signature]  
Lynna Monell, **Deputy**  
Clerk of the Board of Supervisors of the  
San Bernardino County Flood Control  
District



APPROVED AS TO FORM:

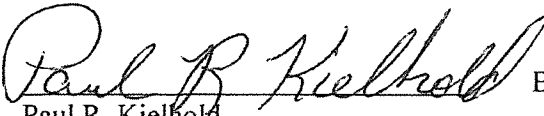
By: **SEE ATTACHED**  
Sophie A. Curtis,  
San Bernardino County  
Deputy County Counsel

Date: \_\_\_\_\_



**SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT**

**SAN BERNARDINO FLOOD CONTROL  
DISTRICT**


By:   
Paul R. Kielhold,  
President, Board of Directors

By: \_\_\_\_\_  
Dawn Rowe, Chair of the Board of  
Supervisors of the San Bernardino  
County Flood Control District

Date: 5/22/23

Date: \_\_\_\_\_

ATTEST:


By:   
Jose Macedo,  
Clerk of the Board


SIGNED AND CERTIFIED THAT A COPY  
OF THIS CONTRACT HAS BEEN  
DELIVERED TO THE CHAIRMAN OF  
THE BOARD

By: \_\_\_\_\_  
Lynna Monell,  
Clerk of the Board of Supervisors of the  
San Bernardino County Flood Control  
District

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By:   
Meredith E. Nikkel,  
San Bernardino Valley Municipal  
Water District Special Counsel

By:   
Sophie A. Curtis,  
San Bernardino County  
Deputy County Counsel

Date: 5-26-2023

Date: June 6, 2023

# EXHIBIT A

## PIPELINE EASEMENTS

Official Record Book 8045 page 1020

Parcel 1-4.1 Devil Canyon Basin

Parcel 1-4.2a North Badger Basin

Parcel 1-4.2b East Badger Basin

Parcel 1-4.3 Sycamore Basin

Parcel 1-4.4 Waterman Basin

RECORDED AT REQUEST OF  
AND MAIL TO  
*San Bernardino Valley Municipal  
Water District  
P.O. Box 5906  
San Bernardino, Calif. 92412*

740

NO FEE  
A

BOOK 8045 PAGE 1020  
RECORDED IN OFFICIAL RECORDS  
SAN BERNARDINO COUNTY CAL.  
TED R. CARPENTER, RECORDER

1972 OCT 20 PM 3 10

GRANT OF EASEMENT

The San Bernardino County Flood Control District, a body corporate and politic of the State of California, does hereby grant to San Bernardino Valley Municipal Water District, a municipal water district organized and existing under the Municipal Water District Law of 1911, as amended, California Water Code Sections 71000 et seq., an easement as described hereinafter for the construction, operation, maintenance, and replacement of a pipeline or pipelines and appurtenances thereto in, over, under, and across that certain real property in the County of San Bernardino, described as follows:

PARCEL 14.1

All those portions of the West one-half of Sections 5 and 8, Township 1 North, Range 4 West, San Bernardino Meridian, in the City of San Bernardino, County of San Bernardino, State of California as the lines of the Government Survey may be extended across the Muscupiabe Rancho, as per map recorded in Book 7, Page 23 of Maps in the office of the County Recorder of said County included within a strip of land, 50.00 feet in right angle width, lying 25.00 feet on each side of the following described centerline:

Commencing at Corner No. 26 of said Rancho Muscupiabe, said corner also being an angle point in the East boundary of that certain property acquired by the City of San Bernardino by deed from the Muscupiabe Land and Water Company, recorded June 30, 1921, in Book 724, Page 8 of Deeds, records of the Recorder;  
thence South 0° 45' 43" East (recorded South 0° 25' East) along the East boundary of said City of San Bernardino parcel, 1273.87 feet;  
thence South 53° 54' 27" East, 473.51 feet to a point in the East line of the land described in the deed to Jack T. Felton et ux recorded July 3, 1969 in Book 7262, Page 550 of Official Records and the TRUE POINT OF BEGINNING;  
thence continuing South 53° 54' 27" East, 34.65 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 1000.00 feet;  
thence Southeasterly, 112.59 feet along the arc of said curve through a central angle of 6° 27' 04";  
thence South 60° 21' 31" East, 1569.59 feet to the beginning of a tangent curve concave Northerly, having a radius of 500.00 feet;  
thence Easterly 179.44 feet along the arc of said curve through a central angle of 20° 33' 43";  
thence South 80° 55' 14" East, 784.42 feet to the beginning of a tangent curve, concave Southerly, having a radius of 1000.00 feet;

thence Easterly 11.25 feet along the arc of said curve, through a central angle of  $0^{\circ} 38' 48''$  to a point on the East line of said West one-half of Section 5 which is South  $0^{\circ} 26' 14''$  East, 202.59 feet from the intersection of said last mentioned East line with the boundary of said Muscupiabe Rancho.

The sidelines of said 50.00 foot wide strip of land shall be prolonged or shortened so as to originate on said Easterly line of said Felton parcel and terminate on the East line of the West one-half of said Sections 5 and 8.

#### PARCEL 1-4.2 Portion -A

That portion of Section 9, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, as the lines of the Government Survey may be extended across the Muscupiabe Rancho, as per map recorded in Book 7, Page 23 of Maps in the office of the County Recorder of said County, being more particularly described as a strip of land being 50.00 feet in right angle width lying 25.00 feet on each side of the following described centerline:

Commencing at Corner No. 28 of said Muscupiabe Rancho;  
 thence North  $89^{\circ} 26' 19''$  West (recorded North  $89^{\circ} 03' 19''$  West) 516.90 feet along the boundary line of said Muscupiabe Rancho;  
 thence South  $22^{\circ} 14' 41''$  West (recorded South  $22^{\circ} 38' 19''$  West) 626.13 feet;  
 thence South  $40^{\circ} 44' 41''$  West (recorded South  $41^{\circ} 08' 19''$  West) 241.56 feet;  
 thence South  $11^{\circ} 21' 19''$  East (recorded South  $10^{\circ} 58' 19''$  East) 127.05 feet;  
 thence South  $40^{\circ} 45' 41''$  West (recorded South  $41^{\circ} 09' 19''$  West) 283.26 feet;  
 thence South  $15^{\circ} 55' 41''$  West (recorded South  $16^{\circ} 19' 19''$  West) 438.47 feet to the TRUE POINT OF BEGINNING;  
 thence South  $62^{\circ} 58' 58''$  East, 211.17 feet to the beginning of a tangent curve concave Southwesterly, having a radius of 500.00 feet;  
 thence Southeasterly, 168.14 feet along the arc of said curve through a central angle of  $19^{\circ} 16' 01''$ ;  
 thence South  $43^{\circ} 42' 57''$  East, 316.10 feet, to a point on the Northerly line of the land described as Parcel 4 in the deed to the San Bernardino County Flood Control District recorded April 23, 1949, in Book 1415, Page 37 of Official Records.

The sidelines of said strip of land shall be prolonged or shortened so as to originate on the Southeasterly line of the land described in the deed to Samuel Max Plaut et al recorded November 15, 1968 in Book 7130, Page 506 of Official Records.

The Southwesterly sideline of said strip of land shall be prolonged so as to terminate on said last mentioned Northerly line of Parcel No. 4.

The Northeasterly sideline of said strip of land shall be shortened so as to terminate on the Southeasterly line of the land described in the deed to the San Bernardino County Flood Control District recorded September 25, 1966 in Book 4046, Page 396 of Official Records.



PARCEL 1-4.2 Portion B

That portion of Section 9, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, as the lines of the Government Survey may be extended across the Muscupiabe Rancho, as per map recorded in Book 7, Page 23 of Maps in the Office of the County Recorder of said County, being more particularly described as a strip of land being 50.00 feet in right angle width lying 25.00 feet on each side of the following described centerline:

Commencing at Corner No. 28 of said Muscupiabe Rancho;  
thence North 89° 26' 19" West (recorded North 89° 03' West) 516.90 feet  
along the boundary line of said Muscupiabe Rancho;  
thence South 22° 14' 41" West (recorded South 22° 38' West) 626.13 feet;  
thence South 40° 44' 41" West (recorded South 41° 08' West) 241.56 feet;  
thence South 11° 21' 19" East (recorded South 10° 58' East) 127.05 feet;  
thence South 40° 45' 41" West (recorded South 41° 09' West) 283.26 feet;  
thence South 15° 55' 41" West (recorded South 16° 10' West) 438.47 feet;  
thence South 02° 56' 58" East, 211.17 feet to the beginning of a tangent  
curve concave Southwesterly, having a radius of 500.00 feet;  
thence Southeasterly, 163.14 feet along the arc of said curve through a central angle of 19° 16' 01";  
Thence South 43° 42' 57" East, 1856.74 feet to a point on that certain course in the boundary of Parcel 4, in the deed to the San Bernardino County Flood Control District recorded April 23, 1940 in Book 1415, Page 37 of Official Records, described as having a bearing of North 24° 30' East and a length of 581.59 feet, said point being the TRUE POINT OF BEGINNING;  
thence South 43° 42' 57" East, 419.22 feet to the beginning of a tangent curve concave Southwesterly, having a radius of 1000.00 feet;  
thence Southeasterly, 137.14 feet along the arc of said curve through a central angle of 7° 51' 29";  
thence South 35° 51' 28" East, 77.31 feet to a point on the Easterly line of said land described as Parcel 4 which is South 4° 10' 20" East, 1303.19 feet from the intersection of said last mentioned Easterly line with the Northerly line of said Muscupiabe Rancho.

The sidelines of said strip of land shall be prolonged or shortened so as to originate in said course herein above described as having a bearing of North 24° 30' East and a length of 581.59 feet and to terminate in said last mentioned Easterly line.

PARCEL 1-4.3

All that portion of the South one-half of Section 9, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, as the lines of the Government Survey may be extended across the Muscupiabe Rancho, as per map recorded in Book 7, Page 23 of Maps in the office of the County Recorder of said County lying within a strip of land 50.00 feet in right angle width lying 25 feet on each side of the following described centerline:

Beginning at a point on the Easterly line of Parcel 4, as described in the deed to the San Bernardino County Flood Control District recorded April 23, 1940 in Book 1415, Page 37 of Official Records which is South 4° 10' 20" East, 1303.19 feet from the intersection of said last mentioned Easterly line with the Northerly line of said Muscupiabe Rancho;

thence South 35° 51' 28" East, 198.90 feet to a point on the Southerly line of the land described in the deed to the San Bernardino County Flood Control District recorded May 14, 1957 in Book 4229, Page 497 of Official Records.

The sidelines of said strip of land shall be prolonged or shortened so as to originate on said Easterly line and terminate on said Southerly line.

#### PARCEL 14.4

All that portion of Section 14, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, as the lines of the Government Survey may be extended across the Muscupiabe Rancho, as per map recorded in Book 7, Page 23 of Maps in the Office of the County Recorder of said County lying within a strip of land 50.00 feet in right angle width lying 25.00 feet on each side of the above described centerline:

Commencing at the intersection of the centerline of Waterman Avenue and a line which is parallel with and 10.52 feet Northerly of the Easterly prolongation of the centerline of 49th Street as per Map of Tract No. 1834 recorded in Book 26, Page 52 of Maps;

thence North 89° 29' 20" East, 52.50 feet parallel with said Easterly prolongation to the East line of Waterman Avenue and the TRUE POINT OF BEGINNING;  
thence North 89° 29' 20" East, 116.52 feet;  
thence South 30° 30' 44" East, 183.45 feet to the end of said strip.

The sidelines of said strip of land shall be prolonged or shortened so as to originate in said East line of Waterman Avenue and terminate at a point which is at right angles from the end of said centerline.

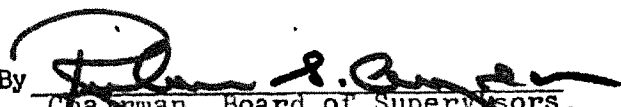
Said easement is granted as a permanent easement and not as a grant in fee and shall authorize the said San Bernardino Valley Municipal Water District to construct, reconstruct, remove, replace, repair, maintain, operate, and use one or more pipelines together with braces, connections, fastenings, communications and power cable and other appliances and fixtures in connection therewith or appurtenant thereto for the transmission and distribution of water, and shall carry with it the right to inspect, make vehicular patrols, alter, remove, replace, reconstruct, and repair the said pipelines and appurtenances, the right to mark the location of said easement by suitable markers set and maintained in the ground at locations which shall not interfere with such reasonable use as the grantor shall make of the land within the limits of said easement, and the right of ingress to and egress from the said easement across the lands of the grantor over routes to be designated in writing by Grantor.

Grantee shall operate and maintain its facilities in such manner and at such time as will not unreasonably interfere with the uses of the Grantor.

Said easements shall be subject to all the terms and conditions of that certain agreement by and between the San Bernardino County Flood Control District and the San Bernardino Valley Municipal Water District executed

DATED: SEP 25 1972

SAN BERNARDINO COUNTY  
FLOOD CONTROL DISTRICT

By   
Chairman, Board of Supervisors,  
San Bernardino County  
Flood Control District

ATTEST:

Leona Rapoport  
Secretary, Board of Supervisors,  
San Bernardino County  
Flood Control District

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) SS.

On this 25th day of September  
1972, before me, the undersigned, a Notary Public in and  
for said County and State, personally appeared

Ruben S. Ayala

known to me to be the Chairman of the Board of Supervisors  
of the San Bernardino County Flood Control District, and

Leona Rapoport

known to me to be the Secretary of the Board of Supervisors  
of said District, and known to me to be the persons who ex-  
ecuted the within instrument on behalf of said District and  
acknowledged to me that they executed the within instrument  
on behalf of said District pursuant to its by-laws or a reso-  
lution of its Board of Supervisors.

WITNESS my hand and official seal.

(Seal) Esther Vaugall  
Notary Public in and for said County and State.

My Commission Expires

06 - 7897 - 561



OFFICIAL SEAL  
ESTHER VAUGALL  
Notary Public - California  
PRINCIPAL OFFICE IN  
SAN BERNARDINO COUNTY  
My Commission Expires June 19, 1976

Subject: Grant of Easement re Zone 2, North San Bernardino Facilities,  
Executed to San Bernardino Valley Municipal Water District for  
the construction, operation, maintenance, and replacement of a  
pipelines & appurtenances. Bd. action of September 25, 1972.

Flood Control Engineer presents to the Board for their approval various documents relating to Zone 2, North San Bernardino facilities and the San Bernardino Valley Municipal Water District. He explains that the water district has contracted with the State Department of Resources to receive and spread Northern California water and in this connection an agreement has been drafted permitting the use of certain Flood Control District facilities in the North San Bernardino area for the spreading of the water. He states that easements are requested for the installation and maintenance of a pipeline to conduct the waters to the spreading areas. Mr. Sidler states that the proposal as well as the terms of the agreements and easements have been reviewed by his office and County Counsel and are considered satisfactory.

Whereupon, on motion by Supervisor Smith, duly seconded by Supervisor Beckord, and carried, the Board of Supervisors hereby approves that certain agreement by and between the San Bernardino Valley Municipal Water District and the Flood Control District dated September 25, 1972 and further authorizes its Chairman to sign said agreement indicating this Board's approval of the terms and conditions therein contained.

By the same motion, the Board of Supervisors hereby approves the Common Use Agreement dated September 25, 1972 with the San Bernardino Valley Municipal Water District with respect to the North San Bernardino Flood Control facilities, Zone 2 and further authorizes its Chairman to sign said document indicating this Board's approval of the terms and conditions therein contained.

The Board takes the following action to execute grants of easements with respect to the pipeline and the turnouts in connection with the subject project: On motion by Supervisor Smith, duly seconded by Supervisor Beckord, and carried, the following resolution is adopted:

WHEREAS, the subject matter of this resolution having been fully considered and it appearing that the following action is proper and is taken in the best public interest;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of San Bernardino Flood Control District that it authorizes execution and granting of two grants of easements drawn in favor of San Bernardino Valley Municipal Water District, involving the property which is fully described in said grants of easements dated September 25, 1972; and

BE IT FURTHER RESOLVED by said Board of Supervisors that it authorizes execution of said instruments for and on behalf of the County of San Bernardino Flood Control District by the Chairman of this Board of Supervisors.

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

AYES: SUPERVISORS: Betterley, Beckord, Smith, Ayala

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: Mikesell

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ss.

I, Leona Rapoport, Secretary of the Board of Supervisors of the San Bernardino County Flood Control District, San Bernardino, California, hereby certify the foregoing to be a full, true and correct copy of the action taken by said district Board of Supervisors, by unanimous vote of the members present, as the same appears in the Official

Minutes of said Board at its meeting of SEPTEMBER 25, 1972

Dated: 9/27/72

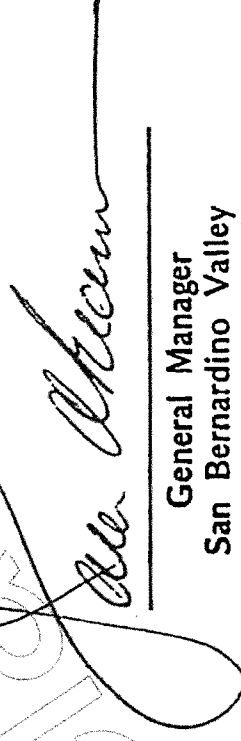
cc: Flood Control  
File

*Leona Rapoport*  
Secretary of the Board of Supervisors of San Bernardino  
County Flood Control District, San Bernardino County,  
California.

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the attached document to the San Bernardino Valley Municipal Water District is hereby accepted by the undersigned officer on behalf of said District and pursuant to the authority conferred by Resolution No. 254 of the Board of Directors of said District, adopted September 2, 1964, and the grantee consents to the recordation thereof by its duly authorized officer.

DATED: October 20, 1972



General Manager  
San Bernardino Valley  
Municipal Water District

# EXHIBIT B

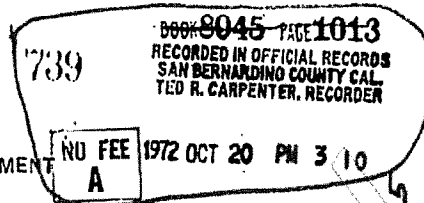
TURNOUT EASEMENTS

Official Record Book 8206 page 594

RECORDED AT REQUEST OF  
AND MAIL TO

San Bernardino Valley Municipal  
Water District  
P.O. Box 5906  
San Bernardino, Calif 92412

GRANT OF EASEMENT



800-8206 PAGE 594

The San Bernardino County Flood Control District, a body corporate and politic of the State of California, does hereby grant to San Bernardino Valley Municipal Water District, a municipal water district organized and existing under the Municipal Water District Law of 1911, as amended, California Water Code Sections 71000 et seq., an easement as described hereinafter for the construction, operation, maintenance, and replacement of a pipeline or pipelines and appurtenances thereto and for construction and use of power recovery and dissipation facilities and appurtenances thereto in, on, over, under and across that certain real property in the County of San Bernardino, described as follows:

435

RECORDED IN OFFICIAL RECORDS  
SAN BERNARDINO COUNTY CAL.  
TED R. CARPENTER, RECORDER

1973 JUN 18 AM 10 26

BADGER BASIN TURNOUT PARCEL:

NO FEE  
B

That portion of Section 9, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, as the lines of the Government Survey may be extended across the Muscupiabe Rancho, as per map recorded in Book 7, Page 23 of Maps in the office of the County Recorder of said County, described as follows:

Commencing at Corner No. 28 of said Muscupiabe Rancho;  
thence North 89° 26' 19" West (recorded North 89° 03' West) 516.90 feet  
along the boundary line of said Muscupiabe Rancho;  
thence South 22° 14' 41" West (recorded South 22° 38' West) 626.13 feet;  
thence South 40° 44' 41" West (recorded South 41° 08' West) 241.56 feet;  
thence South 11° 21' 19" East (recorded South 10° 58' East) 127.05 feet;  
thence South 40° 45' 41" West (recorded South 41° 09' West) 283.26 feet;  
thence South 15° 55' 41" West (recorded South 16° 19' West) 438.47 feet;  
thence South 62° 58' 58" East, 115.71 feet to the TRUE POINT OF BEGINNING;  
thence North 27° 01' 02" East, 25.00 feet;  
thence South 62° 58' 58" East, 95.46 feet to the beginning of a tangent  
curve concave Southwesterly, having a radius of 525.00 feet;  
thence Southeasterly, 14.54 feet along the arc of said curve through a  
central angle of 1° 35' 13";  
thence South 27° 01' 02" West, 204.80 feet;  
thence North 62° 58' 58" West, 110.00 feet;  
thence North 27° 01' 02" East, 180.00 feet to the TRUE POINT OF BEGINNING.

Note made 6/14/73:  
This document is being re-recorded  
for the purpose of inserting a date  
that was originally omitted on page 5  
of this document. JWS

739



DEVIL CANYON TURNOUT PARCEL:

All that portion of the West one-half of Section 5, Township 1 North, Range 4 West, San Bernardino Meridian, in the City of San Bernardino, County of San Bernardino, State of California, lying within the lines of Muscupiabe Rancho as per map recorded in Book 7, Page 23 of Maps defined by extending the United States Government Survey lines across said Rancho, described as follows:

Commencing at Corner No. 26 of said Rancho Muscupiabe, said corner also being an angle point in the East boundary of that certain property acquired by the City of San Bernardino by deed from the Muscupiabe Land and Water Company, recorded June 30, 1921, in Book 724, Page 8 of Deeds, records of the Recorder;  
thence South  $0^{\circ} 45' 43''$  East (recorded South  $0^{\circ} 25' 43''$  East) along the East boundary of said City of San Bernardino parcel, 1273.87 feet;  
thence South  $53^{\circ} 54' 27''$  East, 481.09 feet to the TRUE POINT OF BEGINNING;  
thence North  $10^{\circ} 14' 41''$  West, 36.21 feet;  
thence South  $53^{\circ} 54' 27''$  East, 53.27 feet to the beginning of a tangent curve, concave Northeasterly having a radius of 975.00 feet;  
thence Southeasterly 40.03 feet along the arc of said curve, through a central angle of  $2^{\circ} 21' 08''$ ;  
thence South  $10^{\circ} 14' 41''$  East, 150.57 feet;  
thence South  $79^{\circ} 45' 19''$  West, 65.00 feet;  
thence North  $10^{\circ} 14' 41''$  West, 181.28 feet to the TRUE POINT OF BEGINNING.

739

WATERMAN AVENUE TURNOUT PARCEL:

All that portion of Section 14, Township 1 North, Range 4 West, San Bernardino Meridian, in the County of San Bernardino, State of California, as the lines of the Government Survey may be extended across the Muscupiabe Rancho, as per map recorded in Book 7, Page 23 of Maps in the Office of the County Recorder of said County described as follows:

Commencing at the intersection of the centerline of Waterman Avenue and a line which is parallel with, and 10.52 feet Northerly of the Easterly prolongation of the centerline of 49th Street as per map of Tract No. 1834 recorded in Book 26, Page 52 of Maps;

thence North 89° 29' 20" East, 78.47 feet, parallel with said prolongation to the TRUE POINT OF BEGINNING;

thence North 11° 15' 08" West, 25.45 feet;

thence North 89° 29' 20" East, 109.73 feet;

thence South 30° 30' 44" East, 197.88 feet;

thence South 59° 29' 16" West, 25.00 feet;

thence South 30° 30' 44" East, 0.50 feet;

thence South 14° 29' 16" West, 189.00 feet;

thence North 75° 30' 44" West, 75.00 feet;

thence North 11° 15' 08" West, 328.20 feet to the TRUE POINT OF BEGINNING.

Said easement is granted as a permanent easement and not as a grant in fee and shall authorize the said San Bernardino Valley Municipal Water District to construct, reconstruct, remove, replace, repair, maintain, operate, and use one or more pipelines together with braces, connections, fastenings, communications and power cable and other appliances and fixtures in connection therewith or appurtenant thereto for the transmission and distribution of water, and to construct, reconstruct, remove, replace, repair, maintain, operate, and use power recovery and dissipation facilities and other appliances and fixtures in connection therewith or appurtenant thereto, and shall carry with it the right to inspect, make vehicular patrols, alter, remove, replace, reconstruct, and repair the said pipelines, power recovery and dissipation facilities, and appurtenances, the right to mark the location of said easement by suitable markers set and maintained in the ground at locations which shall not interfere with such reasonable use as the grantor shall make of the land within the limits of said easement, and the right of ingress to and egress from the said easement across the lands of the grantor over routes to be designated in writing by Grantor.

Grantee shall operate and maintain its facilities in such manner and at such time as will not unreasonably interfere with the uses of the Grantor.

Said easements shall be subject to all the terms and conditions of that certain agreement by and between the San Bernardino County Flood Control District and the San Bernardino Valley Municipal

Water District executed

*JK WOB*  
*September 25, 1972.*

BOOK 8206 PAGE 598  
BOOK 8045 PAGE 1017  
(added 5/14/73)

DATED: 10/25/72

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

By: *Ruben S. Ayala*

Chairman, Board of Supervisors,  
San Bernardino County  
Flood Control District

Attest: *Leona Rapoport*

Secretary, Board of Supervisors, SEAL  
San Bernardino County  
Flood Control District

Subject: Grant of Easement re Zone 2, North San Bernardino Facilities,  
executed on September 25, 1972 to San Bernardino Valley Municipal  
Water District for the construction, operation, maintenance, and  
replacement of a pipeline or pipelines & appurtenances.

739

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) SS.

On this 25th day of September  
1972, before me, the undersigned, a Notary Public in and  
for said County and State, personally appeared

Ruben S. Ayala  
known to me to be the Chairman of the Board of Supervisors  
of the San Bernardino County Flood Control District, and

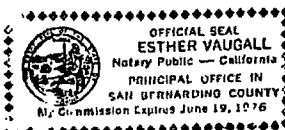
Leona Rapoport  
known to me to be the Secretary of the Board of Supervisors  
of said District, and known to me to be the persons who ex-  
ecuted the within instrument on behalf of said District and  
acknowledged to me that they executed the within instrument  
on behalf of said District pursuant to its by-laws or a reso-  
lution of its Board of Supervisors.

WITNESS my hand and official seal.

(Seal) *Esther Vaugall*  
Notary Public in and for said County and State.

My Commission Expires

08 - 7867 - 581



5.

BOOK 8845 PAGE 1018

Flood Control Engineer presents to the Board for their approval various documents relating to Zone 2, North San Bernardino facilities and the San Bernardino Valley Municipal Water District. He explains that the water district has contracted with the State Department of Resources to receive and spread Northern California water and in this connection an agreement has been drafted permitting the use of certain Flood Control District facilities in the North San Bernardino area for the spreading of the water. He states that easements are requested for the installation and maintenance of a pipeline to conduct the waters to the spreading areas. Mr. Sidler states that the proposal as well as the terms of the agreements and easements have been reviewed by his office and County Counsel and are considered satisfactory.

Whereupon, on motion by Supervisor Smith, duly seconded by Supervisor Beckord, and carried, the Board of Supervisors hereby approves that certain agreement by and between the San Bernardino Valley Municipal Water District and the Flood Control District dated September 25, 1972 and further authorizes its Chairman to sign said agreement indicating this Board's approval of the terms and conditions therein contained.

By the same motion, the Board of Supervisors hereby approves the Common Use Agreement dated September 25, 1972 with the San Bernardino Valley Municipal Water District with respect to the North San Bernardino Flood Control facilities, Zone 2 and further authorizes its Chairman to sign said document indicating this Board's approval of the terms and conditions therein contained.

The Board takes the following action to execute grants of easements with respect to the pipeline and the turnouts in connection with the subject project: On motion by Supervisor Smith, duly seconded by Supervisor Beckord, and carried, the following resolution is adopted:

WHEREAS, the subject matter of this resolution having been fully considered and it appearing that the following action is proper and is taken in the best public interest:

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of San Bernardino Flood Control District that it authorizes execution and granting of two grants of easements drawn in favor of San Bernardino Valley Municipal Water District, involving the property which is fully described in said grants of easements dated September 25, 1972; and

BE IT FURTHER RESOLVED by said Board of Supervisors that it authorizes execution of said instruments for and on behalf of the County of San Bernardino Flood Control District by the Chairman of this Board of Supervisors.

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

AYES: SUPERVISORS: Betterley, Beckord, Smith, Ayala

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: Mikesell

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ss.

I, Leona Rapoport, Secretary of the Board of Supervisors of the San Bernardino County Flood Control District, San Bernardino, California, hereby certify the foregoing to be a full, true and correct copy of the action taken by said district Board of Supervisors, by unanimous vote of the members present, as the same appears in the Official

Minutes of said Board at its meeting of SEPTEMBER 25, 1972

Dated: 9/27/72

cc: Flood Control  
File

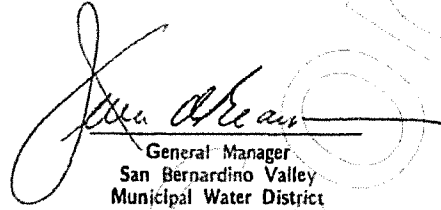
Leona Rapoport  
Secretary of the Board of Supervisors of San Bernardino  
County Flood Control District, San Bernardino County,  
California.

SEAL

## CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the attached document to the San Bernardino Valley Municipal Water District is hereby accepted by the undersigned officer on behalf of said District and pursuant to the authority conferred by Resolution No. 254 of the Board of Directors of said District, adopted September 2, 1964, and the grantee consents to the recordation thereof by its duly authorized officer.

DATED: October 20, 1972

  
General Manager  
San Bernardino Valley  
Municipal Water District

739

Unofficial

# EXHIBIT C

COMMON USE AGREEMENT

CA723/09010

COMMON USE AGREEMENT

F.C.D. COPY

WHEREAS, the SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT, a municipal water district organized and existing under the Municipal Water District Law of 1911, as amended, California Water Code §§71000 et seq, hereinafter referred to as Water District, has been granted an easement for the construction, operation, maintenance, and replacement of one or more pipelines and related facilities in, over, under and across that certain real property in the County of San Bernardino described as follows:

That portion of Section 6, Township 1 North, Range 4 West, according to the Government Surveys if extended across the Muscupiabe Rancho, said Section 6 being a portion of the lands acquired by the City of San Bernardino by deed from the Muscupiabe Land and Water Company, recorded June 30, 1921, in Book 724, Page 8 of Deeds, records of the Recorder of San Bernardino County, in the City of San Bernardino, State of California, as per map recorded in Book 7, Page 23 of Maps, in the office of said County recorder of said county being more particularly described as a strip of land 50.00 feet in right angle width, lying 25.00 feet on each side of the following described centerline:

Commencing at Corner No. 13, as established by George E. Sherer, May 14, 1921, said corner being identical with Corner No. 26, Rancho Muscupiabe, from which point Corner No. 14, as established by George E. Sherer, May 14, 1921, bears South 0° 45' 43" East (formerly recorded South 0° 25' East); thence North 74° 43' 15" West, 1076.76 feet to the TRUE POINT OF BEGINNING; thence South 16° 42' 19" West, 320.90 feet; thence Southerly and Easterly along the arc of a 500.00 foot radius curve, tangent to the last described course, concave Northeasterly, through a central angle of 70° 36' 46" for an arc distance of 616.22 feet; thence South 53° 54' 27" East, along a line tangent to the last described curve 1192.38 feet to a point in the East line of said City of San Bernardino property from which point the corner hereinbefore referred to as Sherer's Corner No. 13 bears North 0° 45' 43" West (formerly recorded North 0° 25' West) 1273.87 feet.

The sidelines of said 50.00 foot wide strip of land shall be prolonged or shortened so as to originate on a line scribed at right angles to the TRUE POINT OF BEGINNING, and terminate on said East line of said City of San Bernardino parcel.

Contains 2.444 acres, more or less.

N. SAN B.

2.350



hereinafter referred to as Area of Common Use;

WHEREAS, the SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic of the State of California hereinafter referred to as "Flood Control District," holds existing easement rights acquired for flood control and water conservation purposes over said real property; and

WHEREAS, both Water District and Flood Control District have need to use Area of Common Use;

NOW THEREFORE, in consideration of the full compliance by Water District with the provisions hereinafter set forth, Flood Control District does hereby acknowledge the right of Water District to use Area of Common Use for the construction, reconstruction, removal, replacement, repair, maintenance, operation, inspection, vehicular patrol, and use of one or more pipelines together with braces, connections, fastenings, communications and power cables, and other appliances and fixtures in connection therewith or appurtenant thereto for the transmission and distribution of water, together with the right to mark the location of its easement by suitable markers set and maintained in the ground at locations which shall not interfere with the reasonable use of the lands within the limits of said easement by Flood Control District, and the right of ingress to and egress from said easement across lands of Flood Control District over routes to be designated in writing by Flood Control District.

PROVIDED HOWEVER, that

1. Each of the parties hereto shall operate and maintain its facilities within the Area of Common Use in such manner and at such times as will cause no expense or liability.

to devolve upon the other without good cause and so as not to unreasonably interfere with the uses of the other.

2. The use of the Area of Common Use by either of the parties hereto shall be subject to all the terms and conditions of that certain agreement between the Flood Control District and Water District dated SEPTEMBER 25, 1972.

THIS AGREEMENT shall inure to the benefit of and be binding upon the successors and assigns of both parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their respective official thereunto duly authorized.

SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT

By *John A. Kean*

APPROVED AS TO FORM:

JAMES W. DILWORTH

*James W. Dilworth*  
General Counsel

SAN BERNARDINO COUNTY  
FLOOD CONTROL DISTRICT

By *Don S. Cuyler*

Chairman, Board of Supervisors,  
San Bernardino County Flood  
Control District

By *Lorna Papoznik*

Secretary, Board of Supervisors  
San Bernardino County  
Flood Control District

APPROVED AS TO FORM:

Standord D. Herlick  
County Counsel

By *E. H. Robinson* 9/13/72

E. H. Robinson  
Deputy County Counsel

# EXHIBIT D

PLATS

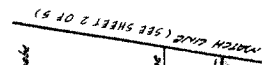
~~Significant findings~~

OCTOBER 1974

Red 4" x 8" Iron Roof Filled  
with Concrete. Muscupubee  
Rancho Corner No. 26 per  
N.S. 7/23 and Sherri's corner  
No. 26 per C.D. 1740 = 1782



(DEVIL CANYON PARCEL)  
RECORDED DOCUMENT BOOK 8206, PAGE 55



Sheet 1 of 5

EXISTING 50VMWPEASEMENT PER BOOK 8045, PAGE 1020 DATED 10/20/1972

(P) PER OFFICIAL RECORD; BOOK 8046, PAGE 1020 DATED 10/20/1972

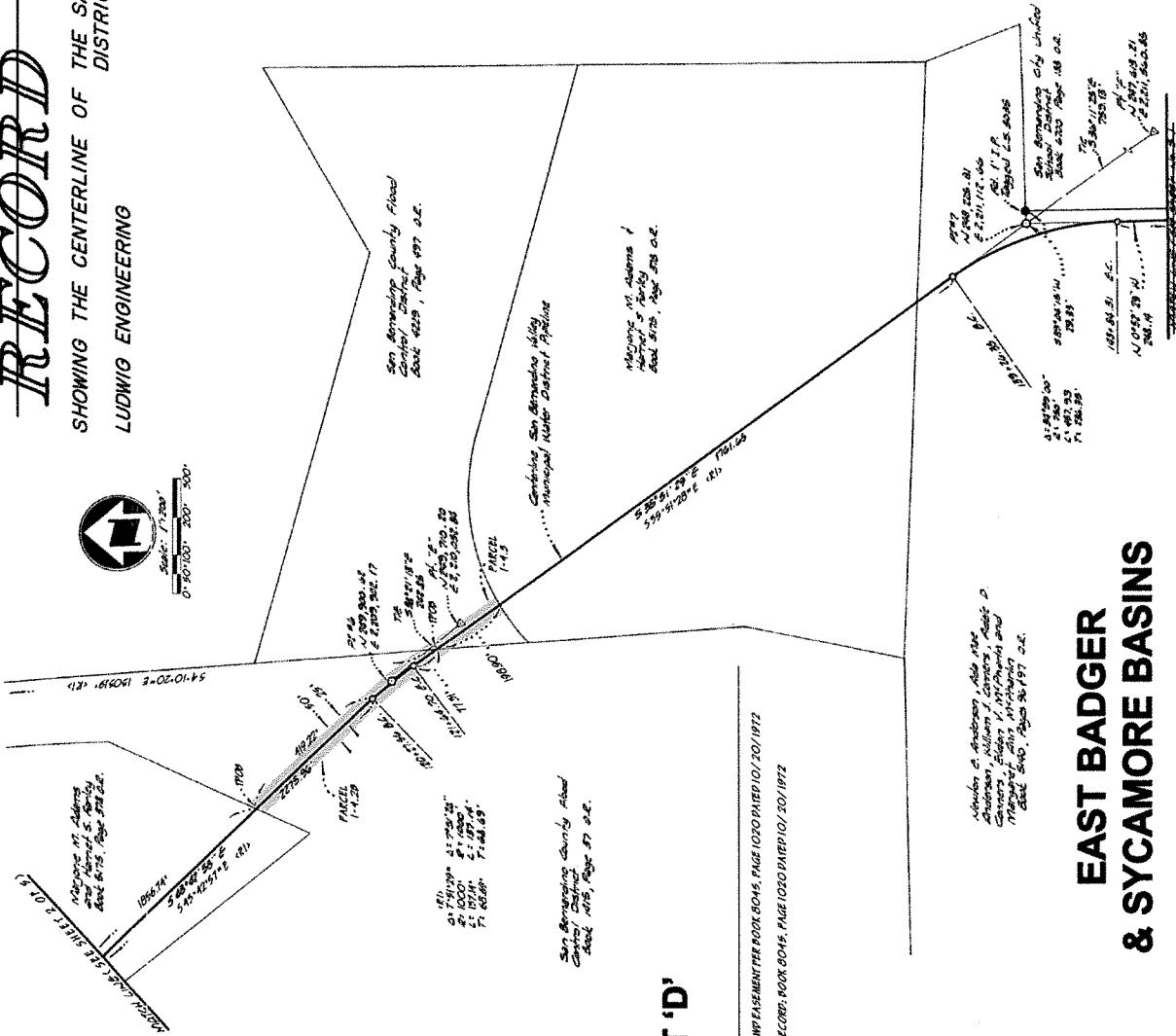
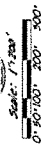
© 2006 The Authors  
Journal compilation © 2006 Blackwell Publishing Ltd

# DEVIL CANYON BASIN



OCTOBER 1974

OCTOBER 1974



LEGEND

	EXISTING SURVIVOR EASEMENT PER BOOK 8045, PAGE 1020 DATED 10/20/1972
Ⓢ	PER OFFICIAL RECORD: BOOK 8045, PAGE 1020 DATED 10/20/1972

## EAST BADGER & SYCAMORE BASINS

[illegible]

# RECORD OF SURVEY

SHOWING THE CENTERLINE OF THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT PIPELINE

LUDWIG ENGINEERING

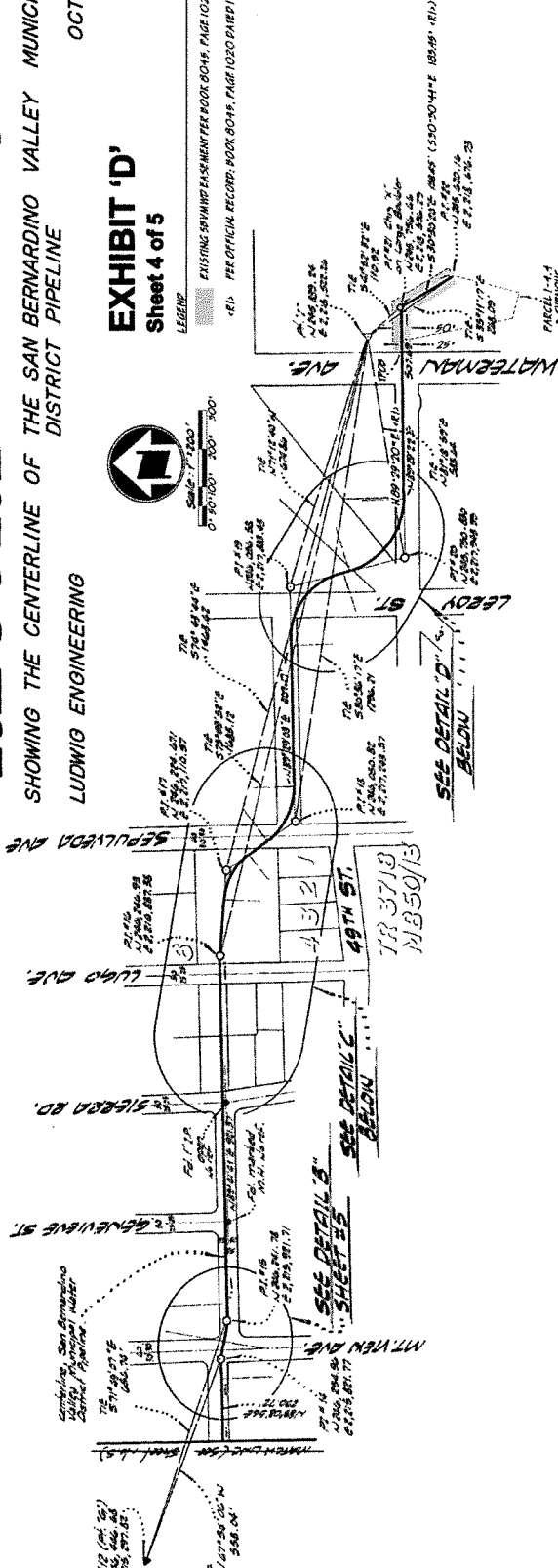
OCTOBER 1974

**EXHIBIT 'D'**  
Sheet 4 of 5



LEGEND

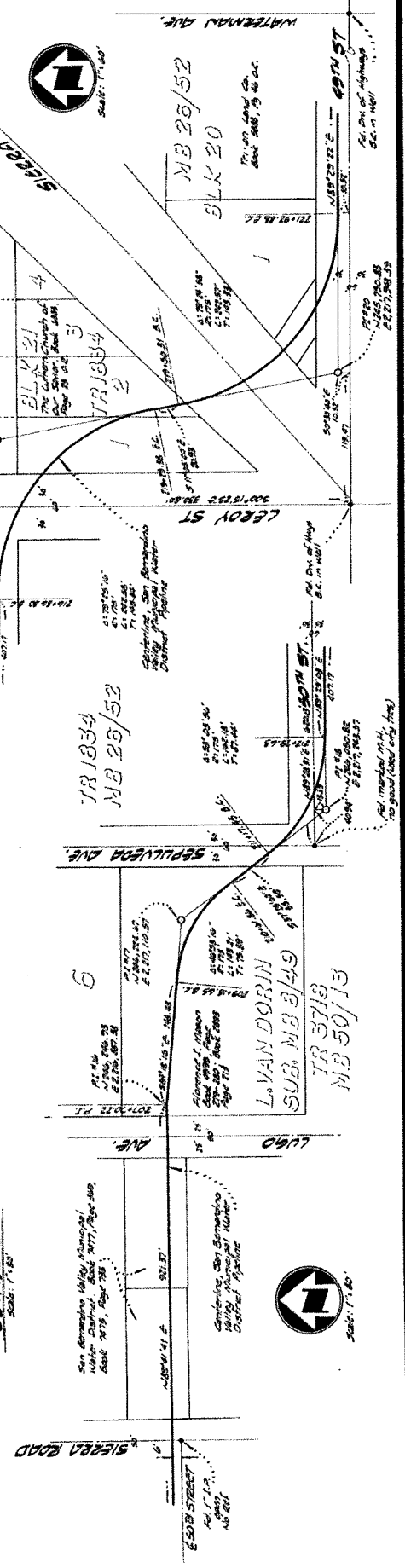
EXISTING SURVING EASEMENT BOOK 8048, PAGE 1020 PARCELS 10/20/1972  
FEE OFFICIAL RECORD, BOOK 8048, PAGE 1020 PARCELS 10/20/1972

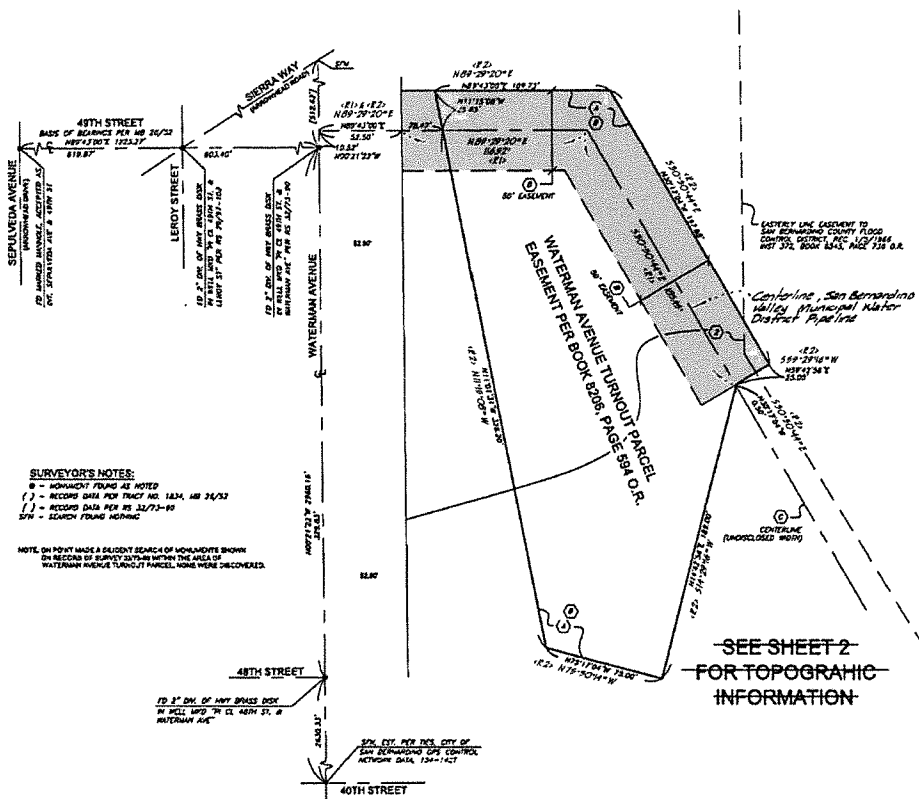


## WATERMAN BASIN

DETAIL 'C'  
Scale: 1" = 80'

DETAIL 'D'  
Scale: 1" = 80'





Sheet No.  
1  
of 2 PAGES  
FILE NO.  
292-661



# EXHIBIT E

## SBVMWD MAPS



# Easements - Badger Basin\Parcel 1-4.2,3

 SBVMWD Easement

 S.B. County Flood Control Parcel

 SBVMWD Pipeline



1:3,600

Aerial Imagery: March, 2019

Parcel 1-4.2 Portion A  
50' Permanent Easement

Badger Basin  
Turnout Parcel

Parcel 1-4.2 Portion B  
50' Permanent Easement

Parcel 1-4.3  
50' Permanent Easement





# Easements - Devil Canyon\Parcel 1-4.1

 SBVMWD Easement

 S.B. County Flood Control Parcel

 SBVMWD Pipeline



NORTH

1:3,600

Aerial Imagery: March, 2019

Parcel 1-4.1  
50' Permanent Easement

Devil Canyon\*  
Turnout Parcel





# Easements - Waterman Ave\Parcel 1-4.4

-  SBVMWD Easement
-  S.B. County Flood Control Parcel
-  SBVMWD Pipeline



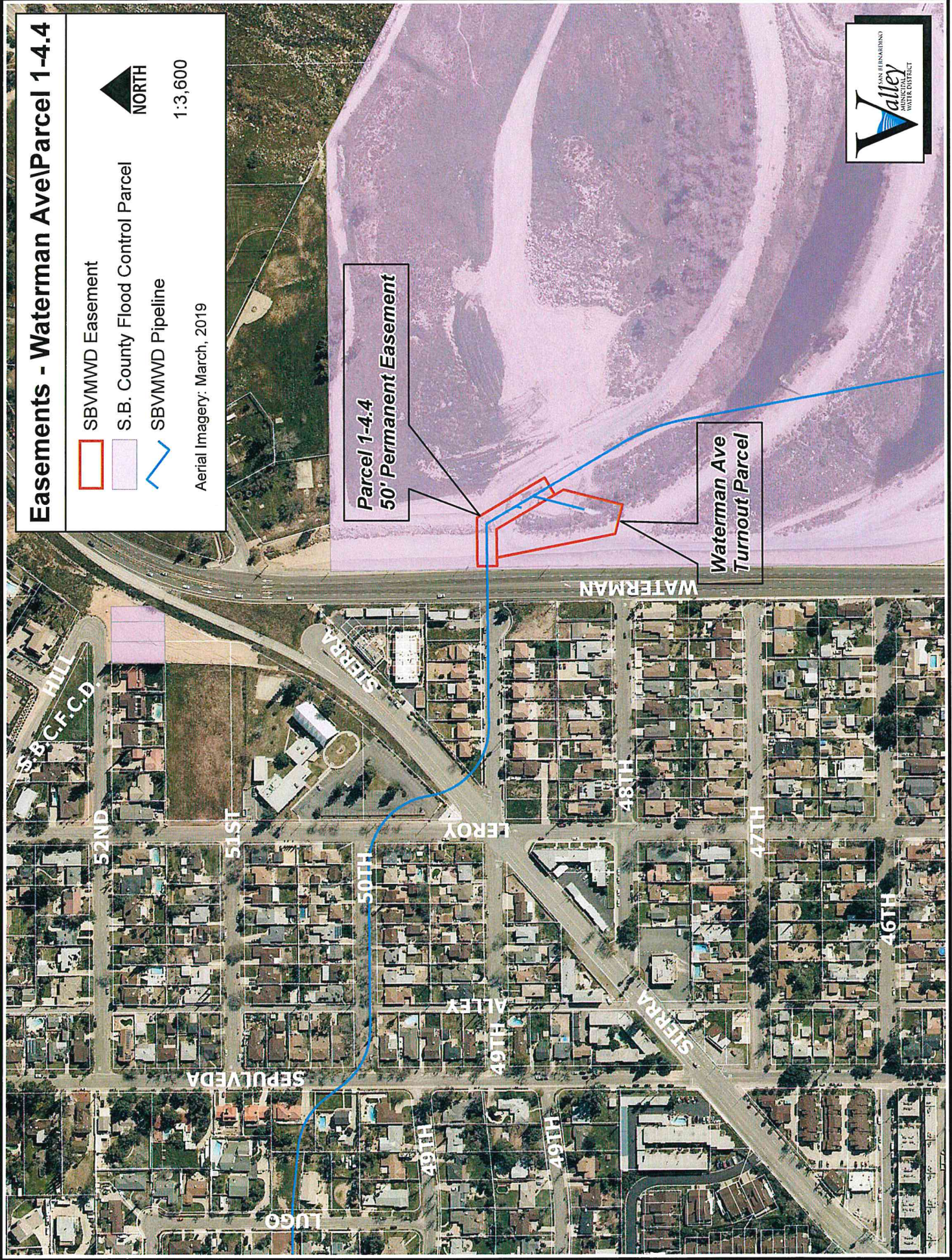
1:3,600

Aerial Imagery: March, 2019

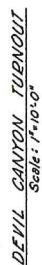
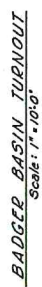


Parcel 1-4.4  
50' Permanent Easement

Waterman Ave  
Turnout Parcel







1. Fence corners are indicated by approximate coordinates only and final location shall be determined after final grading is completed.

[illegible]

# AS BUILT

[illegible]

SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT  
FOOTHILL PIPELINE  
EAST BRANCH SECTION 1  
DRAWINGS AND RESULTS

No. 432 Drawing Size D  
Page 1 of 1

	SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT	WATER TRANSMISSION PROJECT		DEVIL CANYON AND BADGER BASIN TURNOUTS SITE PLANS		DATE: 11/11/03 DESIGNED BY: [Signature] CHECKED BY: [Signature]	REV. 2 7843-C-258
	7843						7843-C-258

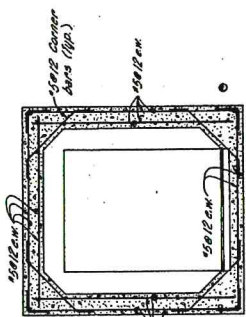










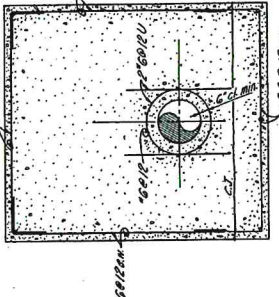


SECTION 293

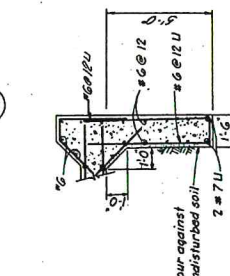
A hand-drawn floor plan of a rectangular room. The room has a central rectangular area and a smaller rectangular area on the right side, which is shaded with horizontal lines. The dimensions are labeled as follows:

- Top wall: 5'0" 1/2
- Left wall: 4'0" 1/2
- Right wall: 5'10" 1/2
- Bottom wall: 5'10" 1/2
- Inner right wall: 4'10" 1/2
- Inner bottom wall: 4'10" 1/2

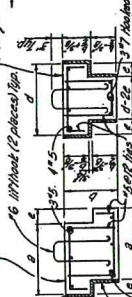
The drawing is on a piece of paper with a grid pattern. There are some handwritten notes and markings around the drawing, including "5'0" 1/2" and "4'0" 1/2" on the left side, and "5'10" 1/2" and "4'10" 1/2" on the right side. The drawing is dated "10/10/10" at the bottom.



SECTION (M)



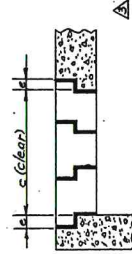
TYPICAL LIFTING INSERT - DETAIL 2  
NTS 260,262.2



REMOVABLE PANELS-DETAIL (N.T.S.)  $\Delta$  LONGITUDINAL

TUGBOAT	STROKE/TURE	a	b	c	d	e	f	g
Devil Canyon		1-54	1-3	1-58	1-8	1-8	1-8	1-8
Bogden Basin		1-1	1-1	3-0	1-3	2-8	3-0	1-10
Waterman		1-8	1-3	4-7	1-8	3-8	10-10	12-6
Water Veail		1-54	1-2	3-1	1-8	4	3-6	1-10
Water Veail		1-2	1-3	1-61	1-8	3-8	3-6	10-10
Water Veail		1-54	1-3	4-0	1-8	3-8	5-3	12-3
Water Veail		1-54	1-3	4-0	1-8	3-8	5-3	12-3
Water Veail		1-54	1-3	4-0	1-8	3-8	5-3	12-3

Class B-1  
concrete



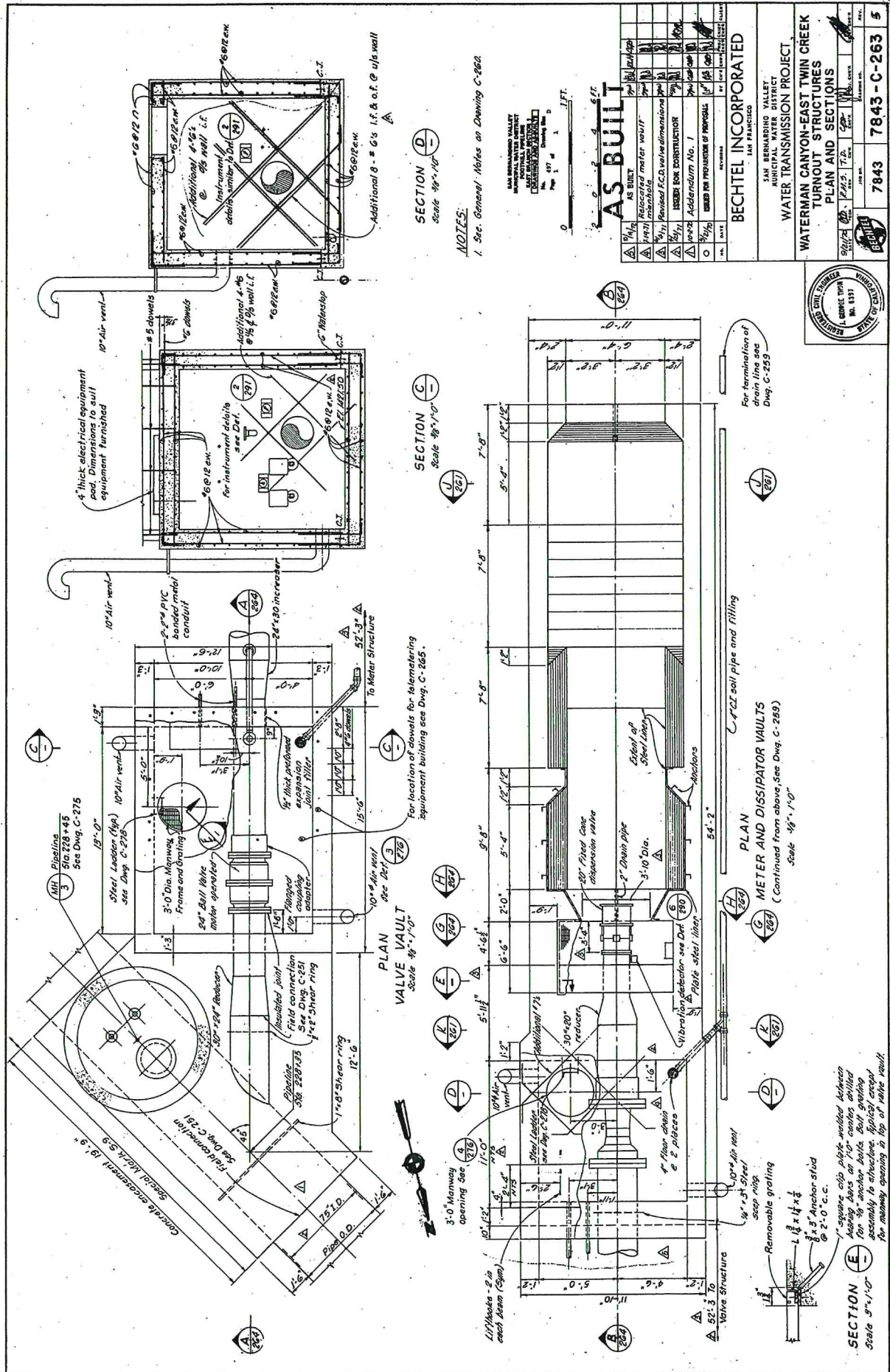
REMOVABLE PANEL SEAT  
TRANSVERSE VIEW (N.T.S.)

# AS BUILT

[illegible]

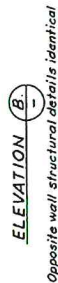








REG. NO. 100



ELEVATION (B.)

Opposite wall structural details identical



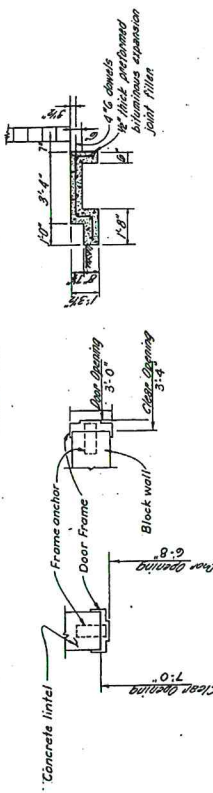
DETAIL 1

Technical drawing of a door assembly. It shows a door frame with a door leaf. The door leaf is shown in a closed position. A locking mechanism is visible on the edge of the door leaf, consisting of a handle and a lock cylinder. The drawing is a cross-section view, showing the internal components of the door and frame.



SECTION SHORT DIRECTION

Scale 1" = 1 ft.

[illegible]

1410

1410

Scale  $1'' = 1 \text{ ft.}$

Scale  $1'' = 1 \text{ ft.}$

SECTION C

SECTION C

Scale  $\frac{3}{8}'' = 1 \text{ ft.}$

**NOTES**  
1. See Dwg's. C-263 and C-264 for Valve Structure details.

**SAN BERNARDINO VALLEY  
MUNICIPAL WATER DISTRICT  
FOOTHILL PIPELINE  
EAST BRANCH SECTION 1  
DRAWINGS AND SPECIFICATIONS**



# AS BUILT

[illegible]

RECORD DRAWINGS	DATE	SCALE	DATE
C-1	5-22-24	1" = 50'	5-22-24

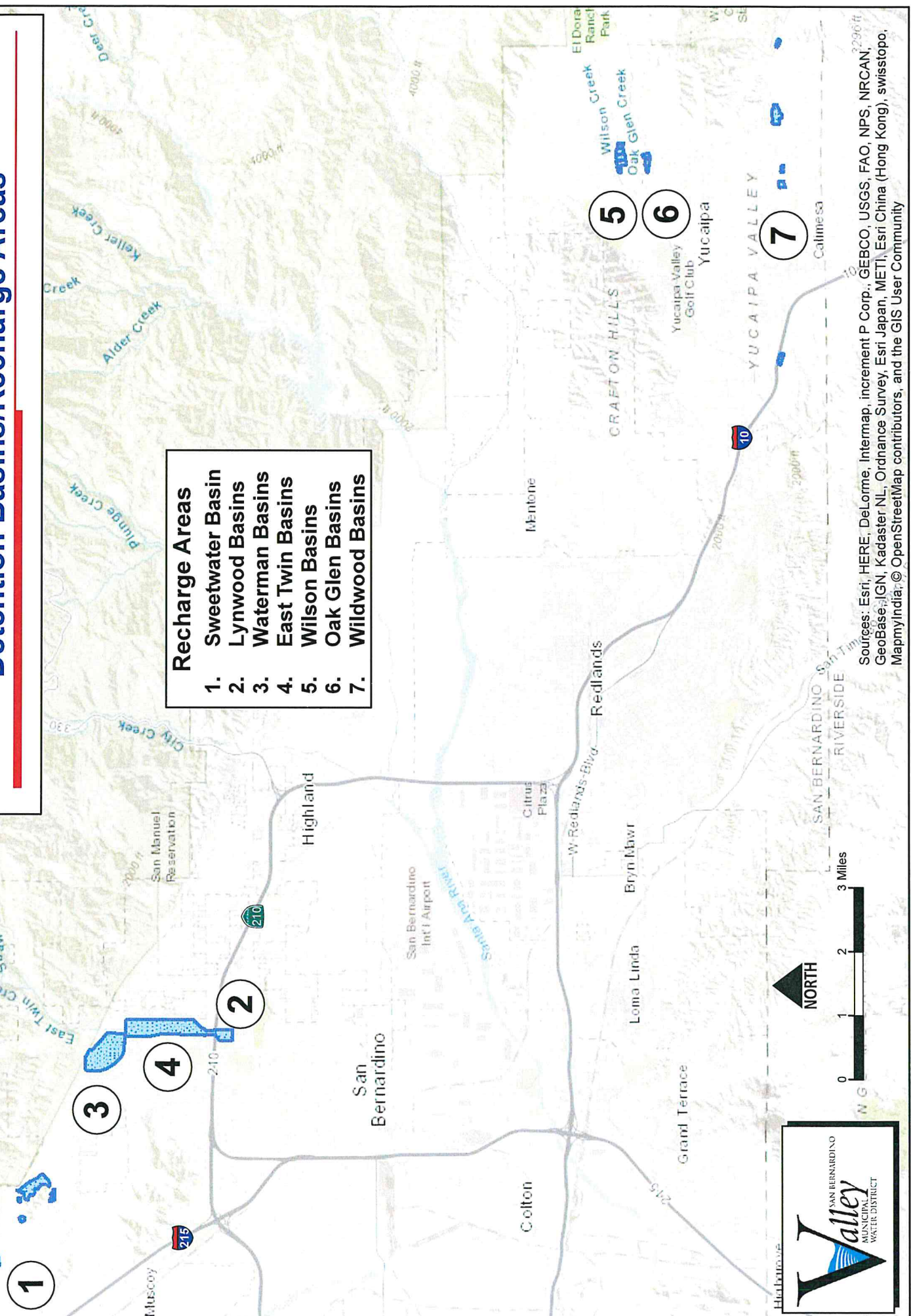




# San Bernardino County Flood Control District

## Detention Basins/Recharge Areas

- Recharge Areas**
1. Sweetwater Basin
  2. Lynwood Basins
  3. Waterman Basins
  4. East Twin Basins
  5. Wilson Basins
  6. Oak Glen Basins
  7. Wildwood Basins



Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community