

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF BOARD GOVERNED COUNTY SERVICE AREAS
AND RECORD OF ACTION**

January 28, 2025

FROM

NOEL CASTILLO, Director, Department of Public Works – Special Districts

SUBJECT

Application to Mojave Water Agency to Provide Water Service Outside Service Area Boundary to California Highway Patrol Station at Cajon Pass Summit

RECOMMENDATION(S)

Acting as the governing body of Board Governed County Service Area 70 J Oak Hills:

1. Approve application to the Mojave Water Agency Watermaster, including non-standard terms, permitting County Service Area 70 J Oak Hills to provide water service outside the adjudicated basin to the California Department of Transportation, to serve a new California Highway Patrol Weigh Station at the Cajon Pass Summit.
2. Authorize the Director and Assistant Director of the Department of Public Works to execute, sign, and transmit the Mojave Water Agency Watermaster's application, referenced in Recommendation No. 1, for the Sale and Delivery of State Project Water under Ordinance No. 9, enabling water service to be provided outside the adjudicated basin to the California Department of Transportation for the California Highway Patrol Weigh Station Project at the Cajon Pass Summit near Oak Hills Road.
3. Authorize County Service Area 70 J Oak Hills to charge the California Department of Transportation the Mojave Water Agency Watermaster rate of \$632 per acre foot for water basin replacement, plus an administrative fee of 33.58% for the costs to provide water service to the California Highway Patrol Weigh Station.
4. Direct the Director of the Department of Public Works to transmit copies of the Mojave Water Agency Watermaster's application, referenced in Recommendation No. 1, to the Clerk of the Board of Supervisors within 30 days of execution.

(Presenter: Noel Castillo, Director, 387-7906)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). County Service Area 70 J – Oak Hills (CSA 70 J), is funded by water fees charged to customers based on usage. In addition to the normal water fees charged to customers in CSA 70 J, the California Highway Patrol (CHP) Weigh Station at the Cajon Pass will be charged directly for the Mojave Water Agency's Watermaster special water service rate of \$632 per acre foot for the State Project Water replacement, plus an administrative fee of 33.58%. Expected water usage from the CHP Station at the Cajon Pass is expected to have a minimal impact to CSA 70 J's overall budget. As such, revenues and expenditures related to this agreement are

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within the growth estimates calculated for 2024-25. Sufficient appropriation was included in the CSA 70 J's 2024-25 budget and will be included in future recommended budgets as necessary.

BACKGROUND INFORMATION

The California Department of Transportation (Caltrans) is building a new CHP Weigh Station at the top of Cajon Pass, which is located just outside the boundaries of both the CSA 70 J water system and the Mojave Water Agency (MWA) adjudicated water basin. Following meetings between, Caltrans, San Bernardino County Department of Public Works – Special Districts (Department), Mojave Water Agency Watermaster (Watermaster), and the City of Hesperia, it was determined that CSA 70 J is the most suitable provider for water services to the new CHP project.

To extend water services beyond its boundaries, CSA 70 J must comply with MWA Ordinance No. 9, which governs the process for new service connections outside established service areas. The ordinance's primary goal is to manage and protect groundwater resources in the Mojave Basin, addressing concerns about overdraft. As part of this process, CSA 70 J must submit an application to MWA before providing water service to the CHP project site, ensuring compliance with regional water management strategies and supporting the sustainability of the Mojave Basin's water resources.

The Department is responsible for signing the Watermaster Ordinance No. 9 application, which will then be submitted to the Watermaster Board for approval. Once approved, CSA 70 J will be authorized to provide water service to the CHP Weigh Station, in accordance with the application terms. No additional agreement or contract will be required after the application is approved.

The MWA application includes non-standard terms, as MWA requires an indemnity agreement and does not include the County's standard insurance requirements. The non-standard terms are as follows:

1. The Application requires an indemnification and hold harmless to MWA should any legal challenge result from the sale or use of water, or construction and operation of facilities, contemplated by this application.
 - The County standard contract does not include any indemnification, hold harmless, or defense by the County of other parties to a contract.
 - Potential Impact: By agreeing to indemnify and hold harmless MWA, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against MWA without such limitations and the County would be responsible to defend and reimburse MWA for costs, expenses, and damages, which could exceed the total agreement amount.
2. The Application does not provide for the insurance and indemnity standards as required by County Policy 11-07.
 - The County standard contract requires parties to the agreement to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department and indemnification to the County.
 - Potential Impact: The Application does not include County standard insurance requirements. This means that the County has no assurance as to MWA will be

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financially responsible for claims that may arise from the work performed pursuant to the Application which could result in expenses to the County that exceed the total agreement amount.

The Department recommends approval of the Application, including non-standard terms, in order to provide water services for the CHP weigh station project at specified rates and pursuant to the requirements of MWA Ordinance No. 9.

After approval, Caltrans will be responsible for paying the Watermaster fee, along with the standard water service fee from CSA 70 J. These fees will be billed through CSA 70 J's normal bi-monthly billing cycle, along with an administration fee. The higher water rate charged to the CHP station will cover both CSA 70 J's actual costs for providing water services and the MWA Watermaster fees. This fee structure will allow the Watermaster to manage the release of water from the California Aqueduct into the Mojave River to offset the water usage by Caltrans. This process ensures that the water taken from the local basin is replenished, helping to sustain the region's groundwater resources while providing the necessary water for the CHP Weigh Station.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Aaron Gest, Deputy County Counsel, 387-5455) on December 20, 2024; Finance (Amanda Trussell, Principal Administrative Analyst, 387-4773) on January 10, 2025; Risk Management (Greg Ustaszewski, Staff Analyst, 386-9005) on December 23, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on January 10, 2025.

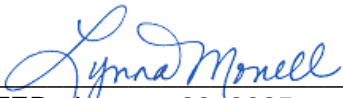
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Record of Action of the Board of Supervisors
Board Governed County Service Areas

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: January 28, 2025



cc: File - SDD/Board Governed County Service Area w/attach
CCM 01/30/2025