

**SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT BOARD
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

509B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

July 17, 2012

SUBJECT: San Jacinto River
Eastern Municipal Water District's Recharge and Recovery Program
Amended and Restated License Agreement
District 3/District 3

RECOMMENDED MOTION:

1. Consider and accept the attached CEQA First and Second Addendums to the Hemet/San Jacinto Integrated Recharge and Recovery Program Final Environmental Impact Report; and
2. Approve the Amended and Restated License Agreement between the District and Eastern Municipal Water District (EMWD), and authorize the Chairman to execute the Agreement documents on behalf of the District; and
3. Direct the Clerk of the Board to file the Notice of Determination.

Continued on Page 2

WARREN D. WILLIAMS
General Manager-Chief Engineer

**FINANCIAL
DATA**

Current F.Y. District Cost:	N/A	In Current Year Budget:	N/A
Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
Annual Net District Cost:	N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A

**Positions To Be
Deleted Per A-30** ☐

Requires 4/5 Vote ☐

C.E.O. RECOMMENDATION:

APPROVE

BY:

Michael R. Shetler

County Executive Office Signature

☐ Consent ☐ Policy
☐ Consent ☐ Policy

Dep't Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.: 10/21/08, Item 11.2 | **District:** 3/3 | **Agenda Number:**

11.6

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL

BY: DATE

Departmental Concurrence

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

SUBJECT: San Jacinto River
Eastern Municipal Water District's Recharge and Recovery Program
Amended and Restated License Agreement
District 3/District 3

SUBMITTAL DATE: July 17, 2012

Page 2

BACKGROUND:

This Amended and Restated License Agreement (Agreement) revises the previously executed License Agreement that sets forth the terms and conditions under which District will allow EMWD to construct, operate and maintain a series of groundwater basins within the District's San Jacinto River (SJR) Levee system.

Pursuant to the California Environmental Quality Act (CEQA) requirements, as a CEQA responsible agency, the District's Board of Supervisors adopted CEQA Findings/Statement of Overriding Considerations and filed a Notice of Determination in conjunction with the October 21, 2008 (Agenda Item 11.2) approval of a License Agreement allowing EMWD, acting as the CEQA lead agency, to construct, operate and maintain a series of groundwater recharge basins within the SJR Levee system. Subsequent to certification of the Hemet/San Jacinto Integrated Recharge and Recovery Program Final Environmental Impact Report (Final EIR) and approval of the License Agreement, EMWD collaborated with the U.S. Fish and Wildlife Service (USFWS) to further minimize potential effects to the federally listed San Bernardino Kangaroo Rat (SBKR; *Dipodomys Merriami Parvus*) by revising the project. The revised project and its associated environmental effect were addressed in the attached EMWD's First and Second CEQA Addendums to the Final EIR. These Addendums have been adopted by the EMWD Board of Directors to address minor technical changes to the Final EIR. District staff concurs that the Addendums are appropriate to address the proposed project subject to this Amended and Restated License Agreement under CEQA and the State CEQA Guidelines. As the CEQA lead agency, EMWD adopted and is required to implement the mitigation measures contained in the Final EIR and Addendums. This Amended and Restated License Agreement provides a number of conditions to ensure that the EMWD project and associated mitigation does not impair the District's ability to operate and maintain the SJR Levee system.

Pursuant to the requirements of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), the District submitted the project authorized in the previous License Agreement to the Western Riverside County Regional Conservation Authority (RCA), USFWS and the California Department of Fish and Game (Department) for review. The proposed project is located within MSHCP conservation areas (Proposed Core 5), and would impact Riparian/Riverine Habitat and occupied SBKR Habitat.

EMWD obtained a Federal Endangered Species Act Biological Opinion and SBKR take authorization directly from the USFWS, therefore, incidental take coverage through the MSHCP is not required. In a letter dated July 3, 2007, the RCA determined that the proposed project is consistent with both the Criteria and other MSHCP requirements (JPR 07-05-22-03). In a letter dated July 10, 2007, the USFWS and Department stated that while EMWD has obtained SBKR take authorization, the proposed project will result in a net loss of occupied SBKR habitat that serves to sustain the SJR SBKR population. The USFW and Department believe that this loss was not anticipated in the MSHCP and is not consistent with the Conservation Area identified in the MSHCP or the other species-specific objectives for SBKR. While the USFWS and Department have no objection to the EMWD project moving forward, they believe that a change in the overall MSHCP conservation strategy for SBKR needs to be addressed by the RCA, USFWS and Department.

Continued

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

SUBJECT: San Jacinto River
Eastern Municipal Water District's Recharge and Recovery Program
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SUBMITTAL DATE: July 17, 2012

Page 3

BACKGROUND (continued):

The EMWD project changes and associated mitigation have been authorized by the USFWS through a reinitiated Section 7 consultation. EMWD has been conditioned by USFWS to offset the project's impacts through the conservation and management of approximately 532 acres along the San Jacinto River. The RCA will be a party to a Cooperative Agreement implementing the conservation areas associated with the project. The Department has authorized the project changes through an Amendment of the Section 1605 Streambed Alteration Agreement.

EMWD has executed this Agreement and County Counsel has approved the Agreement as to legal form.

FINANCIAL:

EMWD is funding all construction, construction inspection costs, and mitigation implementation costs. Future operation, maintenance costs and mitigation monitoring costs will accrue to EMWD.

CLC:blj

AMENDED AND RESTATED LICENSE AGREEMENT

San Jacinto River Levee System

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", and the EASTERN MUNICIPAL WATER DISTRICT, hereinafter called "EMWD", hereby agree as follows:

RECITALS

A. DISTRICT operates and maintains the San Jacinto River Levee System (Project Nos. 4-0-00020 and 4-0-00030), shown on DISTRICT Drawing Nos. 4-0234, 4-0178 and 4-0236, hereinafter called "SJR LEVEE SYSTEM", principally located in western Riverside County; and

B. SJR LEVEE SYSTEM is an essential and integral part of DISTRICT'S regional system of stormwater management infrastructure that provides critical flood control and drainage within the area; and

C. DISTRICT and EMWD previously entered into that certain License Agreement executed on October 21, 2008, hereinafter called "PREVIOUS AGREEMENT", which set forth the terms and conditions under which DISTRICT will allow EMWD to utilize a specific area consisting of thirty-five (35) acres of DISTRICT'S existing SJR LEVEE SYSTEM right-of-way to construct a series of ponds and associated appurtenances for groundwater recharge; and

D. Subsequent to the execution of PREVIOUS AGREEMENT, EMWD collaborated with the U.S. Fish and Wildlife Service to modify the ponds and its associated appurtenances for groundwater recharge, hereinafter called "PROJECT", including location to further minimize potential adverse effects to the environment. PROJECT is shown in concept on Exhibit "A", attached hereto and made a part hereof, and on EMWD's drawing C-1 dated December 14, 2011 and detailed designed drawings G-1, C-1, C-2 and M-1 dated April 12,

2012 all of which were prepared by Krieger and Stewart, Inc. and attached hereto as Exhibit "B" and made a part hereof; and

E. EMWD has obtained the following revised regulatory permits and approvals to construct, operate and maintain PROJECT: a) Reinitiated Biological Opinion (FWS-WRIV-08B0106-10F0045) dated December 23, 2011, attached hereto as Exhibit "C"; b) Amended Section 404 Individual Permit (SPL-2004-01197) dated February 24, 2012 and expires on December 31, 2035, attached hereto as Exhibit "D"; c) Amended Section 401 Water Quality Standards Certification (SARWQCB Project No. 332007-09) dated January 5, 2012, attached hereto as Exhibit "E"; d) Amended Section 1605 Streambed Alteration Agreement (No. 1600-2007-0033-R6) dated January 25, 2012 and expires on May 1, 2027, attached hereto as Exhibit "F"; and e) a Section 408 Permit (EE2010-63) dated April 4, 2012, attached hereto as Exhibit "G". Together these regulatory permits and approvals are hereinafter called "REGULATORY PERMITS"; and

F. As a condition of one or more of the above REGULATORY PERMITS, EMWD is required to protect certain real property situated in the Cities of Hemet and San Jacinto, and the County of Riverside, hereinafter together called "PROPERTY", by means of a conservation easement(s) and/or a conservation and management area(s) designation that names the Western Riverside County Regional Conservation Authority, hereinafter called "RCA", as the beneficiary and management authority. That certain real property is generally shown on Exhibit "H", attached hereto, and made a part hereof. Said conservation easements, and conservation and management areas, are hereinafter called "CONSERVATION EASEMENT" and "CONSERVATION MANAGEMENT AREA", respectively. Together, CONSERVATION EASEMENT and CONSERVATION MANAGEMENT AREA are hereinafter called "CONSERVATION EASEMENT/MANAGEMENT AREA"; and

1 G. A portion of PROPERTY is subject to and encumbered by certain
2 easements and fee simple rights of way in favor of DISTRICT, hereinafter called DISTRICT
3 PROPERTIES, necessary for the operation and maintenance of SJR LEVEE SYSTEM; and

4 H. DISTRICT entered into a separate cooperative agreement on May 24,
5 2012 with EMWD and others which allows EMWD to (a) include DISTRICT PROPERTIES in
6 CONSERVATION EASEMENT or CONSERVATION MANAGEMENT AREA, as
7 appropriate, provided that this CONSERVATION EASEMENT/MANAGEMENT AREA is
8 subject to the existing rights and benefits already granted in favor of DISTRICT; and (b)
9 authorize the RCA to manage DISTRICT PROPERTIES in a manner that does not, in any way
10 whatsoever, impair SJR LEVEE SYSTEM'S primary flood control purpose and function or
11 otherwise interfere with DISTRICT'S ability to operate and maintain the SJR LEVEE
12 SYSTEM. Said cooperative agreement, hereinafter called "COOPERATIVE AGREEMENT",
13 is hereby incorporated by reference in its entirety; and
14

15 I. EMWD has provided DISTRICT with written confirmations from the
16 U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, California Regional Water
17 Quality Control Board-Santa Ana Region, and Department of Fish and Game that
18 REGULATORY PERMITS, including any subsequent renewal or amendments thereto, will not
19 (i) impede upon DISTRICT'S ability to perform all necessary operation and maintenance
20 activities for SJR LEVEE SYSTEM, or (ii) include any stipulations that would result in
21 additional mitigation obligations being place upon DISTRICT for maintenance operations
22 within SJR LEVEE SYSTEM'S right of way; and
23

24 J. EMWD has also provided written confirmation from the RCA that
25 REGULATORY PERMITS, COOPERATIVE AGREEMENT, CONSERVATION
26 EASEMENT or CONSERVATION MANAGEMENT AREA, will not (i) impede upon
27
28

DISTRICTS ability to perform all necessary operation and maintenance activities for SJR LEVEE SYSTEM, or (ii) include any stipulations that would result in additional mitigation obligations being placed upon the DISTRICT for maintenance operations within SJR LEVEE SYSTEM'S right of way; and

K. EMWD desires to construct, operate and maintain PROJECT within approximately thirty-five (35) acres of DISTRICT'S SJR LEVEE SYSTEM'S right of way, as shown in concept on Exhibit "I", attached hereto and made a part hereof; and

L. DISTRICT issued an encroachment permit (4-0-00020-3277), hereinafter referred to as "EP 3277" and attached hereto as EXHIBIT "J", to EMWD on April 24, 2012 for the construction, operation and maintenance of certain groundwater recharge ponds associated with PROJECT. Upon DISTRICT approval of all necessary special studies, PROJECT plans and specifications, and REGULATORY PERMITS, DISTRICT will amend EP 3277 to include other groundwater recharge components of PROJECT such as pipelines, river access ramps and fencing that are subject to review and approval by the U.S. Army Corps of Engineers; and

M. SJR LEVEE SYSTEM'S flood control function is sporadic in nature and thus, construction, operation and maintenance of PROJECT can be accommodated within SJR LEVEE SYSTEM'S right of way to the extent that such uses do not unreasonably interfere with SJR LEVEE SYSTEM'S principal function or DISTRICT'S ability to operate and maintain SJR LEVEE SYSTEM; and

N. Designation of Lead Agency pursuant to the California Environmental Quality Act (CEQA) – EMWD and DISTRICT, both parties acting as public agencies, hereby agree that, pursuant to CEQA and CEQA Guidelines Section 15051(d), for purposes of complying with CEQA:

1 a) EMWD will act as the sole CEQA lead agency for the PROJECT
2 and, as such, will have the corresponding responsibility to fulfill the
3 obligations of a CEQA lead agency with respect to PROJECT.
4 EMWD has certified a Final Environmental Impact Report (SCH
5 #2003121068, Certified August 4, 2004) along with two
6 Addendums to the Final Environmental Impact Report (Adopted
7 June 23, 2010 and November 16, 2011).

8 b) DISTRICT will act as the CEQA responsible agency for PROJECT
9 in connection to this Amended and Restated License Agreement,
10 hereinafter called "AMENDED LICENSE AGREEMENT"; and
11

12 O. Subject to the provisions of this AMENDED LICENSE AGREEMENT,
13 DISTRICT is willing to allow EMWD to construct, operate and maintain PROJECT within SJR
14 LEVEE SYSTEM'S rights of way provided (a) EMWD assumes sole responsibility for
15 construction, mitigation, operation, and maintenance of PROJECT; (b) EMWD'S construction,
16 mitigation, operation, and maintenance of PROJECT do not unduly interfere with DISTRICT'S
17 ability to perform all necessary operation and maintenance activities for SJR LEVEE
18 SYSTEM; (c) EMWD is willing to assume sole responsibility for any and all additional
19 regulatory, mitigation, and/or litigation costs to DISTRICT resulting from the
20 CONSERVATION EASEMENT/MANAGEMENT AREA, COOPERATIVE AGREEMENT
21 and/or REGULATORY PERMITS; and (d) EMWD is willing to indemnify and hold
22 DISTRICT harmless from any claims arising from EMWD'S use of SJR LEVEE SYSTEM'S
23 right of way or EMWD'S responsibilities in connection therewith or the condition thereof; and
24

25 P. It is in the public interest to proceed with this AMENDED LICENSE
26 AGREEMENT.
27
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NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, the parties hereto mutually agree as follows:

SECTION I

EMWD shall:

1. Pursuant to CEQA, assume Lead Agency role and responsibility for preparation, circulation and adoption of all necessary and appropriate CEQA documents pertaining to construction, operation and maintenance of PROJECT.

2. Assume sole responsibility for (i) the design, construction, mitigation, inspection, operation and maintenance of PROJECT, and (ii) EMWD'S use of the SJR LEVEE SYSTEM'S right of way.

3. Not place or maintain, nor to permit the placement or maintenance of any element of PROJECT, including but not limited to CONSERVATION EASEMENT/MANAGEMENT AREA, within a minimum width of fifteen (15) feet away from the toe of the levee except as provided for in this AMENDED LICENSE AGREEMENT or as have been approved by DISTRICT in writing.

4. Prior to commencing construction of PROJECT, other than the grading of the recharge ponds, obtain an amendment to EP 3277 from DISTRICT, for the construction and subsequent operation and maintenance of PROJECT associated appurtenances, pursuant to its rules and regulations and comply with all provisions set forth therein.

5. Not permit any change to or modification of DISTRICT'S permitted PROJECT plans and specifications without prior written consent of DISTRICT.

6. Furnish DISTRICT with copies of all REGULATORY PERMITS, including any subsequent renewal or amendments thereto, for review and approval prior to final execution or acceptance by EMWD. DISTRICT approval of any such document(s) may

1 be withheld when, in the sole judgment of DISTRICT'S General Manager – Chief Engineer,
2 the said document(s) unreasonably constrains, inhibits or impairs DISTRICT'S ability to
3 operate and maintain SJR LEVEE SYSTEM.

4 7. Assume sole responsibility for compliance with the requirements of all
5 REGULATORY PERMITS, including any amendments thereto, pertaining to the
6 construction, operation and maintenance of PROJECT.

7 8. Ensure that REGULATORY PERMITS, including any subsequent
8 renewal or amendments thereto, will not (i) impede DISTRICT'S ability to perform all
9 necessary operation and maintenance activities for SJR LEVEE SYSTEM, or (ii) include any
10 stipulations that would result in additional mitigation obligations being placed upon
11 DISTRICT for maintenance operations within SJR LEVEE SYSTEM'S right of way. In the
12 event additional mitigation obligations are imposed upon DISTRICT as a result of
13 REGULATORY PERMITS and any subsequent renewal or amendments, EMWD shall be
14 solely responsibility for implementing said mitigation at its sole cost and expense.
15

16 9. Prepare, or cause to be prepared, at its sole expense, any special studies
17 necessary to fully comply with the requirements of REGULATORY PERMITS, including any
18 subsequent renewal and amendments thereafter, for the construction, operation and
19 maintenance of PROJECT. A copy of any such studies shall be furnished to DISTRICT for its
20 review and comments prior to forwarding said studies to the respective regulatory agencies.
21

22 10. Ensure that CONSERVATION EASEMENT/MANAGEMENT AREA
23 will not, in any way whatsoever (i) interfere with DISTRICT'S rights and benefits previously
24 granted in favor of the DISTRICT; and (ii) impair SJR LEVEE SYSTEM'S primary flood
25 control purpose and function or otherwise interfere with DISTRICT'S ability to operate and
26 maintain the SJR LEVEE SYSTEM.
27
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11. Assume sole responsibility for resolving, at its sole cost and expense, any conflicts between PROJECT, REGULATORY PERMITS including any subsequent renewal and amendments thereafter, CONSERVATION EASEMENT/MANAGEMENT AREA, COOPERATIVE AGREEMENT, and/or this AMENDED LICENSE AGREEMENT in an acceptable manner as determined solely by DISTRICT.

12. Pay DISTRICT, within thirty (30) days of receipt of invoice(s) from DISTRICT, for all costs associated with (i) the review of all environmental studies, REGULATORY PERMITS, engineering reports, PROJECT plans and specifications, right of way documents, CONSERVATION EASEMENT/MANAGEMENT AREA documents, and COOPERATIVE AGREEMENT, (ii) construction inspection and periodic compliance inspections of PROJECT, and (iii) the preparation, processing and administration of this AMENDED LICENSE AGREEMENT.

13. Construct or cause to be constructed, PROJECT in accordance with DISTRICT permitted plans and specifications.

14. Inspect or cause to be inspected PROJECT construction by its construction manager.

15. Completely remove or cease, upon written request of DISTRICT'S General Manager-Chief Engineer, any EMWD installed improvements and/or equipment or EMWD uses or allow uses of PROJECT in a manner which, in the opinion of DISTRICT'S General Manager-Chief Engineer, would be detrimental to the operation of SJR LEVEE SYSTEM.

16. Waive any claim against DISTRICT for damages to PROJECT or any EMWD equipment situated within SJR LEVEE SYSTEM right of way resulting from DISTRICT'S customary operation and maintenance activities performed within SJR LEVEE

SYSTEM right of way, save and except damages resulting from DISTRICT'S sole active negligence or willful misconduct.

17. Within SJR LEVEE SYSTEM right of way, (i) assume sole responsibility for the operation and maintenance of EMWD constructed PROJECT, including but not limited to, performing all necessary repairs and the routine withdrawal of water from the ponds, and (ii) assume all liability associated with PROJECT including claims of third persons for injury or death or damage to property associated with the use of SJR LEVEE SYSTEM'S right of way.

18. Promptly repair any damage to SJR LEVEE SYSTEM, in its use of SJR LEVEE SYSTEM'S right of way under the rights herein granted, unless such damage is caused by natural flooding or is the result of DISTRICT'S customary operation, maintenance or improvements to its facilities located therein.

19. Indemnify and hold harmless the DISTRICT (including its directors, officers, Board of Supervisors, elected and appointed officials, agents, employees, representatives, independent contractors, and subcontractors) from any liability whatsoever, based or asserted upon any act or omission of EMWD (including its officers, agents, employees, subcontractors, independent contractors, guests and invitees), arising from, related to or in any manner connected with EMWD'S PROJECT, EMWD'S responsibilities in connection with PROJECT, EMWD'S use of or entry upon SJR LEVEE SYSTEM right of way, or EMWD'S rights or obligations under this AMENDED LICENSE AGREEMENT, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever. EMWD shall defend, at its sole expense, all costs and fees including but not limited, to attorneys' fees, cost of investigation, defense and settlements or awards, DISTRICT (including its directors, officers, Board of Supervisors, elected and

appointed officials, agents, employees, representatives, independent contractors, and subcontractors) in any claim or legal action based upon such alleged acts or omissions.

SECTION II

DISTRICT shall:

1. As a Responsible Agency pursuant to CEQA, take all necessary and appropriate actions pertaining to the granting of this license, as it relates to flood control, and operation and maintenance of PROJECT within SJR LEVEE SYSTEM right of way.

2. Grant EMWD a license to utilize SJR LEVEE SYSTEM right of way for operation and maintenance of PROJECT which are not incompatible with SJR LEVEE SYSTEM'S primary flood control purpose and which do not interfere with or impair DISTRICT'S ability to operate and maintain SJR LEVEE SYSTEM or any of its appurtenant works. Said license shall remain in effect indefinitely so long as EMWD complies with the provisions of this AMENDED LICENSE AGREEMENT.

3. Review, comment and approve, as appropriate, EMWD'S plans and specifications for PROJECT that is to be constructed within SJR LEVEE SYSTEM'S right of way.

4. Review and comment on all REGULATORY PERMITS, including any subsequent renewal or amendments thereto, prior to final execution or acceptance by EMWD.

5. Upon DISTRICT approval of all necessary special studies, PROJECT plans and specifications, and REGULATORY PERMITS, issue an amendment to EP 3277 as set forth in Section I.5. for construction of PROJECT within SJR LEVEE SYSTEM'S right of way.

6. Notify EMWD in writing of (i) any non-compatible use or condition that is not in conformity with the provisions of this AMENDED LICENSE AGREEMENT, or (ii)

any condition which, in the sole opinion of DISTRICT'S General Manager-Chief Engineer, could adversely affect the primary flood control function of SJR LEVEE SYSTEM or DISTRICT'S ability to operate and maintain SJR LEVEE SYSTEM, and give EMWD ten (10) days from and after such notice to correct any such nonconforming use or condition.

7. Keep an accurate accounting of all DISTRICT costs associated with (i) the review of all environmental studies, REGULATORY PERMITS, engineering reports, PROJECT plans and specifications, right of way documents, CONSERVATION EASEMENT/MANAGEMENT AREA documents, and COOPERATIVE AGREEMENT, (ii) the construction inspection and periodic compliance inspections of PROJECT, and (iii) the preparation, processing and administration of this AMENDED LICENSE AGREEMENT.

8. Except as otherwise specifically provided herein, assume no responsibility, obligation or liability whatsoever for (i) the design, construction, mitigation, inspection, operation and maintenance of PROJECT, or (ii) any damage to PROJECT resulting from DISTRICT'S customary operation and maintenance activities performed within SJR LEVEE SYSTEM'S right of way.

SECTION III

It is further mutually agreed:

1. All work associated with PROJECT shall be inspected by EMWD and shall not be deemed complete until approved and accepted as complete by EMWD.

2. DISTRICT personnel may observe and inspect all work being done on PROJECT but shall provide any quality control comments to EMWD personnel who shall be responsible for all communication with EMWD'S contractor or agent during the construction of PROJECT.

3. DISTRICT reserves the right to terminate this AMENDED LICENSE AGREEMENT and any encroachment permit issued thereto, if for any reason whatsoever, DISTRICT determines that PROJECT or EMWD'S use of SJR LEVEE SYSTEM'S right of way is not compatible with SJR LEVEE SYSTEM'S primary flood control purpose.

4. Any waiver by DISTRICT or by EMWD of any breach of any one or more of the terms of this AMENDED LICENSE AGREEMENT shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or EMWD to require exact, full and complete compliance with any terms of this AMENDED LICENSE AGREEMENT shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT or EMWD from enforcement hereof.

5. If any provision in this AMENDED LICENSE AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

6. This AMENDED LICENSE AGREEMENT is to be construed in accordance with the laws of the State of California.

7. Any and all notices sent or required to be sent to the parties of this AMENDED LICENSE AGREEMENT will be mailed by first class mail, postage prepaid, to the following addresses:

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT 1995 Market Street Riverside, CA 92501 Attn: Operations and Maintenance Division	EASTERN MUNICIPAL WATER DISTRICT Post Office Box 8300 Perris, CA 92572-8300 Attn: Assistant General Manager Engineering and Construction
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8. Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided for by this AMENDED LICENSE AGREEMENT, shall be tried in a court of competent jurisdiction in the County of Riverside,

State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.

9. This AMENDED LICENSE AGREEMENT is the result of negotiations between the parties hereto and the advice and assistance of their respective counsel. The fact that this AMENDED LICENSE AGREEMENT was prepared as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty or ambiguity in this AMENDED LICENSE AGREEMENT shall not be construed against DISTRICT because DISTRICT prepared this AMENDED LICENSE AGREEMENT in its final form.

10. This AMENDED LICENSE AGREEMENT is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith. This AMENDED LICENSE AGREEMENT may be changed or modified only upon the written consent of the parties hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this AMENDED LICENSE

AGREEMENT on _____
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL: **RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**


WARREN D. WILLIAMS
General Manager-Chief Engineer

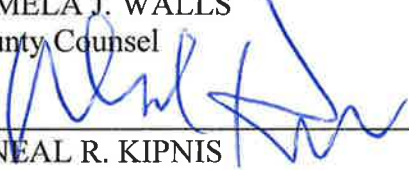
MARION ASHLEY, Chairman
Board of Supervisors, Riverside County Flood
Control and Water Conservation District

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel


KECIA HARPER-IHEM
Clerk of the Board

By 
NEAL R. KIPNIS
Deputy County Counsel

By _____
Deputy

(SEAL)

EASTERN MUNICIPAL WATER DISTRICT

By 
PAUL D. JONES II
General Manager

Amended License Agreement – SJR Levee System
TT:CLC:blj
6/20/2012

California State Clearinghouse Handbook

Notice of Determination**Form C**

To: X Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: Riverside County Flood Control District
1995 Market Street
Riverside, CA 92501

X County Clerk
County of Riverside
2724 Gateway Drive
Riverside, CA 92507

Subject: Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code

Project Title

License Agreement for the Eastern Municipal Water District's San Jacinto River Groundwater Recharge Basins

State Clearinghouse Number

(If submitted to Clearinghouse)

2003121068

Responsible Agency**Contact Person**

Art Diaz

Area Code/Telephone/Extension

951.955.1233

Project Location (include County)

The proposed project is located within the Riverside County Flood Control and Water Conservation District's (District) San Jacinto River Levee system near the city of San Jacinto in western Riverside County. The proposed project is located within an un-sectioned portion of Townships 4 and 5 South, Range 1 East, of the U.S. Geological Survey (USGS) San Jacinto 7.5 Series Topographic Quadrangle map.

Project Description:

The District has amended and restated a previously executed License Agreement authorizing Eastern Municipal Water District (EMWD) to construct, operate, and maintain a series of groundwater recharge basins and appurtenances within the San Jacinto River Levee system. The amended License Agreement addresses changes in the project to further reduce potential impacts to the San Bernardino Kangaroo Rat as requested by the U.S. Fish and Wildlife Service. Pursuant to CEQA, EMWD is the lead agency and has adopted the Final Environmental Impact Report (FEIR) for the Hemet/San Jacinto Integrated Recharge and Recovery Program as well as First and Second Addendums to the FEIR. The District considered the FEIR, and adopted CEQA Findings/Statement of Overriding Considerations when approving the previous License Agreement on October 21, 2008. The amended License Agreement and the First and Second Addendums address changes in the project that were authorized in a prior license agreement. The District considered and has accepted EMWD's First and Second Addendums as a responsible agency.

This is to advise that the Riverside County Flood Control and Water Conservation District has approved the above project

 Lead Agency X Responsible Agency

on July 17, 2012 and has made the following determinations regarding the above described project:

(Date)

1. Pursuant to CEQA, the District considered and accepted the First and Second Addendums as adopted by EMWD.
2. The project will have a significant effect on the environment.
3. Mitigation measures were made a condition of the approval of the project.
4. A mitigation reporting and monitoring plan was adopted for this project.
5. A statement of overriding considerations was adopted for this project.
6. Findings were made pursuant to the provisions of CEQA.

This is to certify that the records of this project's approval and the First and Second Addendums are available to the general public at:

Office of the Clerk of the Board, County Administrative Center, 4080 Lemon Street, Riverside, CA 92501



Signature (Public Agency)



Date



Title

Date received for filing at OPR:

Revised January, 2001