

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION
MEETING OF SEPTEMBER 14-15, 2016
APPLE VALLEY**

ITEM 11

RESOLUTION AUTHORIZING A SUPPLEMENTAL ENVIRONMENTAL PROJECT PROGRAM MEMORANDUM OF UNDERSTANDING WITH THE TRANSITION HABITAT CONSERVANCY

CHRONOLOGY

February 12, 2014	<p>The Water Board adopted Resolution No. R6T-2014-0014 authorizing a region-specific Supplemental Environmental Project (SEP) Program (Program).</p> <p>The Water Board also adopted Resolution No. R6T-2014-0015 authorizing a SEP pilot program with the Truckee River Watershed Council. The purpose of the pilot program is to evaluate the SEP Program prior to full implementation throughout the region.</p>
February 11, 2016	<p>The Water Board adopted Resolution No. R6T-2016-0005 approving a Memorandum of Understanding (MOU) establishing a SEP Program partnership agreement between the Water Board, the Mojave Integrated Regional Water Management (IRWM) Plan Implementation Support Team, and signatory stakeholder organizations of the Mojave IRWM region, which includes the Transition Habitat Conservancy.</p>

BACKGROUND

The Water Board approved a Program for identifying, approving, and implementing SEPs when they are included as a part of administrative civil liability settlements. The Program provides guidance to Water Board staff and dischargers in developing SEPs that further the Water Board's expressed priorities consistent with the State Water Board SEP Policy. The Program supports establishing partnerships with independent third parties (partner organizations) to identify projects that may qualify for SEPs, manage SEP escrow accounts, and implement SEPs.

The Program includes criteria for identifying appropriate independent third parties and processes for developing partnership agreements. The Program also establishes criteria for evaluating and identifying projects as potential SEPs. The resolution adopting the Program directs Water Board staff to delay full implementation of the Program until

a pilot program with the Truckee River Watershed Council is completed and evaluated.

Water Board staff provided a briefing on the Truckee River Watershed Council pilot program to the Water Board at its July, 2015 meeting. The Water Board generally agreed that Water Board staff may continue pursuing agreements with interested independent third parties.

ISSUES

- Does the Transition Habitat Conservancy (Conservancy) meet the criteria for becoming a Water Board SEP Program partner and should the Water Board adopt the proposed resolution authorizing a MOU that creates a SEP Program partnership with the Conservancy?

DISCUSSION

The Water Board's SEP Program's criteria for selecting SEP Program Partner Organizations emphasizes a qualifying partner's:

- focus on watershed-based issues, including regional approaches to water management and water management involvement in land use decisions;
- transparent, broad, and collaborative stakeholder-based project development/selection process;
- coordination with neighboring watershed efforts and state and federal agencies; and
- long-term, successful project implementation.

The Water Board's SEP Program identifies Integrated Regional Water Management (IRWM) Groups and locally-based watershed groups (such as the Truckee River Watershed Council) as examples of watershed-based groups that could satisfy the Water Board's SEP Program's Partner Organization criteria. The Water Board's SEP Program's partnership criteria aligns with project-selection criteria in current state funding programs and laws that promote community-supported, multi-benefit, and collaborative projects. Specifically, IRWM Groups are examples of organizations that are being emphasized through current state funding programs and laws.

The Transition Habitat Conservancy (Conservancy) submitted information to the Water Board on April 6, 2016, demonstrating that it meets the Water Board's SEP Program's Partner Organization criteria. The Conservancy operates in the West Mojave Desert area spanning the Antelope Valley, Fremont Valley, Mojave River, and some adjacent (e.g., Cuddeback Hydrologic Unit) watershed basins.

The Conservancy recently became a member of the Mojave IRWM Group after the Mojave IRWM Group's Implementation Support Team identified and submitted its project list in accordance with its MOU with the Water Board (Water Board Resolution No. R6T-2016-0005). An area of jurisdictional overlap exists between the Conservancy and the Mojave IRWM Group within the Mojave River watershed basin. One of the Conservancy's potential projects, the Sheep Creek Recharge Project, is partially located within the Mojave River IRWM.

Similarly, other IRWM Groups exist within the Fremont Valley and Antelope Valley watershed areas that have jurisdictional overlap with the Conservancy. However, those IRWM groups have not yet applied to become a partner organization with the Water Board's SEP Program.

The proposed Resolution and associated MOU will establish a partnership agreement with the Conservancy, filling an existing geographical gap (Antelope Valley, Fremont Valley, and some adjacent watersheds) where there currently is not an organization ready to become a SEP Program Partner Organization. The proposed Resolution encourages the Conservancy to participate in, and list future projects through, local IRWM groups to better align the project selection criteria with state funding programs and laws that promote community-supported, multi-benefit, and collaborative projects

Eligible Organization - In 2005, the Conservancy was formed as a California nonprofit public benefit corporation, which is exempt from taxation under Internal Revenue Code section 501(c)(3). Resolution No. R6T-2014-0014 identifies such organizations as eligible to participate in the Water Board's SEP Program as a partner organization.

Public Stakeholder-Based Project Development Process - The Conservancy implements the San Bernardino County General Plan, Community Plans (adopted for the communities of Phelan and Pinon Hills), the Los Angeles County General Plan, and the Antelope Valley Plan. Specifically, the Conservancy implements the Conservation and Open Space Elements of the San Bernardino Plan, as well as the Significant Ecological Area Plan of Los Angeles County's Antelope Valley Plan. The Conservancy also implements the U.S. Fish and Wildlife Service's 2012 Desert Tortoise Recovery Plan.

Respective Boards of Supervisors conduct public stakeholder meetings associated with their respective plans (General and Community). The U.S. Fish and Wildlife Service developed its Desert Tortoise Recovery Plan through an extensive stakeholder process managed by the Center for Collaborative Policy, which also included input from a designated technical advisory committee. The Conservancy is also authorized by the California Department of Fish and Wildlife to hold mitigation lands for permits requiring land mitigation associated with temporary and permanent impacts to waters of the state in the West Mojave Desert. The projects identified in the various plans have been vetted through public stakeholder processes and then selected by the Conservancy to meet their mission

Project Management and Collaborative Experience – The Conservancy's responsibility for implementing the critical conservation, restoration, and preservation elements of the above-referenced plans demonstrates local, state, and federal agencies' confidence in the Conservancy's ability to collaborate on and implement a variety of mitigation projects. Additionally, the Conservancy currently owns and maintains approximately 7,000 acres of land protecting upstream watersheds, infiltration areas, ephemeral drainages, wildlife habitat, and lands that provide ecosystem function.

The Conservancy conducts spring and seep studies in these areas for the purpose of ensuring water supply to critical habitat areas. During its 11-year existence, the Conservancy has expended over \$15 million to support these efforts in addition to creating permanent endowments to fund continued conservation efforts.

The information, above, demonstrates that the Conservancy meets the criteria for becoming a SEP Program partner with the Water Board.

PUBLIC OUTREACH/INPUT

Water Board and Conservancy staffs have been working cooperatively since April, 2016, to develop the language in the proposed Resolution and MOU. The Conservancy approved the proposed Memorandum of Understanding at its July 21, 2016 meeting.

Additionally, comments on this item were publicly solicited on August 31, 2016.

PRESENTERS

Cathe Pool, Lahontan Water Board
 Jill Bays, Director, Transition Habitat Conservancy

RECOMMENDATION

Adopt the Resolution as proposed.

ENCLOSURE	ITEM	BATES NUMBER
1	Proposed Resolution - Lahontan Water Board SEP MOU with the Transition Habitat Conservancy	11-7
2	Water Board staff presentation	Under separate cover
3	Transition Habitat Conservancy presentation	11-53
4	Water Board SEP Program – Resolution No. R6T-2014-0014	11-67

ENCLOSURE 1

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

RESOLUTION NO. R6T-2016-(PROPOSED)

**LAHONTAN WATER BOARD
SUPPLEMENTAL ENVIRONMENTAL PROJECT PROGRAM
MEMORANDUM OF UNDERSTANDING
WITH THE
TRANSITION HABITAT CONSERVANCY**

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

1. The Water Board adopted the “Lahontan Water Board Supplemental Environmental Project (SEP) Program” (Lahontan SEP Program) on February 12, 2014 (Water Board Resolution No. R6T-2014-0014).
2. The Lahontan SEP Program supports establishing partnerships with independent third parties (partner organizations) to (1) identify projects that may qualify for SEPs, (2) manage SEP payments from dischargers, and (3) implement SEPs consistent with the Water Board’s expressed priorities.
3. The Water Board’s SEP Program’s criteria for selecting SEP Program partners emphasize a qualifying partner’s broad, watershed-based focus on issues, transparent and broad stakeholder-based project development/selection process, coordination with neighboring watershed efforts and state and federal agencies, and long-term, successful project implementation. The Water Board’s SEP Program’s partnership criteria aligns with selection criteria in current state funding programs and laws that promote community-supported, multi-benefit, and collaborative projects.
4. The Water Board has delayed full implementation of the Lahontan SEP Program until a pilot program is completed and evaluated. While the pilot program time period has been extended, the pilot program was evaluated, in part, at the Water Board’s July 9, 2015 meeting in South Lake Tahoe, California. The Water Board directed staff to proceed with developing agreements with potential partner organizations.
5. The Transition Habitat Conservancy (Conservancy) submitted an application to become a SEP Program partner organization to the Water Board on April 6, 2016 (Attachment A). Water Board staff determined that the Conservancy met the criteria established by Water Board Resolution No. R6T-2014-0014 for partner organizations, including engaging the public in selecting and prioritizing potential projects.

6. Water Board staff accepted the application on June 3, 2016 and began developing a Memorandum of Understanding (MOU) with the Conservancy.
7. The Conservancy operates in the West Mojave Desert area spanning the Antelope Valley, Fremont Valley, Mojave River, and some adjacent (e.g., Cuddeback Hydrologic Unit) watershed basins. The Conservancy will be serving as a SEP Program partner organization with the Water Board in the Antelope, Fremont, and Mojave River watershed basins.
8. The Conservancy provided comments on a draft MOU on June 17, 2016. The proposed MOU (Attachment B) incorporates those comments. The Conservancy approved the proposed MOU at its July 21, 2016 meeting.
9. The Conservancy submitted information on June 20, 2016 on seven potential projects that may be considered eligible as SEPs. The project submittal forms are provided in Attachment C to this Resolution. Three of the proposed projects propose land acquisitions for restoration, storm water/flood control, and water supply for wildlife habitat. Four of the projects are technical studies related to groundwater management and wellhead protection. All seven projects satisfy the criteria of the SEP Program identified in Water Board Resolution No. R6T-2014-0014.
10. The Conservancy recently became a member of the Mojave IRWM Group after the Mojave IRWM Group's Implementation Support Team identified and submitted its project list in accordance with its MOU with the Water Board (Water Board Resolution No. R6T-2016-0005). The Water Board acknowledges an area of jurisdictional overlap between the Conservancy and the Mojave IRWM Group within the Mojave River watershed basin. One of the Conservancy's potential projects, the Sheep Creek Recharge Project, is partially located within the Mojave River IRWM.

Similarly, other IRWM Groups exist within the Fremont Valley and Antelope Valley watershed areas that have jurisdictional overlap with the Conservancy. However, those IRWM groups have not yet applied to become a partner organization with the Water Board's SEP Program.
11. The Water Board encourages the Conservancy to participate with the other IRWM groups within the Fremont Valley, Antelope Valley and Mojave River watersheds to support the Water Board's effort to fund community-based, multi-benefit, and collaborative projects within the region through its SEP Program.
12. The Water Board has notified interested parties throughout the Lahontan Region of its intent to adopt this Resolution by posting to a list server and on the Water Board's web site.
13. The Water Board, in a public meeting, heard and considered all comments regarding the Resolution.

THEREFORE, BE IT RESOLVED THAT:

1. The Water Board approves the MOU with the Transition Habitat Conservancy (Attachment B) to become a SEP Program partner organization.
2. The Water Board accepts the seven projects identified in Attachment C as satisfying the SEP Program's qualification criteria identified in Water Board Resolution No. R6T-2014-0014.
3. The Water Board directs staff to post the agreement with the Transition Habitat Conservancy in a prominent location on the Water Board's web site.
4. The Water Board authorizes the Water Board Executive Officer to approve any amendments in the agreement that are still consistent with the SEP Program identified in Water Board Resolution No. R6T-2014-0014.
5. Once applicable MOUs are in place, the Water Board encourages the Transition Habitat Conservancy to participate in, and list future projects through, local Integrated Regional Water Management groups. Doing so will align the project selection criteria with state funding programs and laws that promote community-supported, multi-benefit, and collaborative projects.

I, Patty Z. Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on September 15, 2016.

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

- Attachments:
- A. Transition Habitat Conservancy's application cover letter
 - B. Memorandum of Understanding: Lahontan Water Board Supplemental Environmental Project Program with the Transition Habitat Conservancy
 - C. Transition Habitat Conservancy Proposed Project Submittal Forms

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Mr. Eric Taxer
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Subject: Letter of Interest and Statement of Qualifications to become a SEP Account Partner
Organization with the Lahontan Regional Water Quality Control Board

Dear Mr. Taxer,

The Transition Habitat Conservancy (THC) is a 501 (c) (3) public benefit land trust operating in the West Mojave Desert. We were formed to implement the San Bernardino County General Plan and the Community Plans adopted for the communities of Phelan and Pinon Hills as well as the Los Angeles County General Plan and Antelope Valley Plan; more specifically the Conservation and Open Space Elements of the San Bernardino Plan and the Significant Ecological Areas Plan of LA County's Antelope Valley Plan respectively. THC is authorized to hold mitigation lands by the Department of Fish and Wildlife and that includes holding mitigation lands for 1600 series permits for Streambed Alteration Agreements, 400 series permits and other RWQCB and DFW permits requiring land mitigation for temporary and permanent impacts to Waters of the State in the West Mojave Desert.

We are also implementing the US Fish and Wildlife's 2012 Desert Tortoise Recovery Plan in recovery units #1 and #2 in the Fremont Kramer Critical Desert Tortoise Habitat lands where we currently own 4,200 acres of critical habitat. In total we own 7,000 acres of land protecting upstream watershed, infiltration areas, ephemeral drainages and lands that provide ecosystem function. We are also involved in spring and seep studies of 316 springs in the Mojave Desert in a first ever comprehensive study of these vital wildlife watering holes.

Our Statement of Qualifications

Mission Statement –

Transition Habitat Conservancy protects areas of critical habitat, transition zone and wildlife corridor ecosystems and their scenic, agricultural, and cultural resource values in the West Mojave Desert. We participate in programs improving our knowledge of the Mojave Desert ecosystem. We also provide education about the fragile and inspirational nature of our desert plants, animals, and ecosystems to connect people to nature.

Governance Structure

California Civil Code section 815.3 permits three distinct types of entities to acquire and hold conservation easements in California:

1. A tax-exempt nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code and qualified to do business in this state which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.



California Government Code

In addition, California Government Code section 65967(a) provides that certain entities may qualify to hold and manage mitigation property:

If a state or local agency requires a project proponent to transfer property to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, the agency may authorize a special district, a nonprofit organization, a for-profit entity, a person, or another entity to hold title to and manage that property.

Government Code section 65967(c) then states that if a state or local agency authorizes a nonprofit organization to hold title to and manage the property, that nonprofit organization must meet all of the following requirements:

The nonprofit organization shall be exempt from taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

The nonprofit organization shall be qualified to do business in this state.

The nonprofit organization shall be a “qualified organization” as defined in Section 170(h)(3) of the Internal Revenue Code.

The nonprofit organization shall have as its principal purpose and activity the direct protection or stewardship of land, water, or natural resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas.

Internal Revenue Code

To qualify under Internal Revenue Code (“IRC”) section 501(c)(3), an organization must satisfy the following criteria:

Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

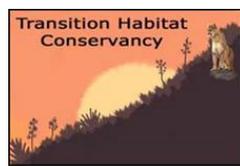
In addition, IRC section 170(h)(3) enumerates the types of nonprofit organizations that are qualified to accept and hold federally tax-deductible conservation easements. Under that code provision, an eligible organization is one that:

- (A) is described in clause (v) or (vi) of subsection (b)(1)(A), or
- (B) is described in section 501(c)(3) and—
 - (i) meets the requirements of section 509(a)(2), or
 - (ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

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How our organization's governance structure addresses and ensures important collaboration

The THC's governance structure addresses and insures the following:

Public Outreach and Involvement Process: The San Bernardino General Plan update and the Phelan/Pinon Hills Community Plans were a culmination of 53 public meetings heavily attended by community participants and where Conservation and Open Space Elements were included in the Plan which was unanimously adopted by the Board of supervisors in march of 2007 and is currently being updated.

Los Angeles County General Plan: The Antelope Valley Plan was recently adopted by LA County Board of Supervisors and includes the Significant Ecological Areas identified by LA County as those best places to preserve in order to maintain the rich natural resources of LA County. Transition Habitat was created to implement these General Plan elements by preserving lands identified in the collective "Plans".

Desert Tortoise Recovery Plan: The publication of the Final Desert Tortoise Recovery Plan Revision (Plan) is an exciting accomplishment for the U.S. Fish and Wildlife Service (Service) and an important milestone in recovery planning for this species. It represents many years of strategic thinking, productive collaboration, and careful consideration of the concerns of stakeholders. During this time, the Service's Desert Tortoise Recovery Office has provided sound guidance and leadership over efforts to revise the Plan through both internal and external dialogue. This included the incorporation of information and feedback from:

1. The Desert Tortoise Science Advisory Committee
2. Four planning workshops in California and Nevada in Winter and Spring 2007
3. Two open houses in California and Nevada in Fall 2007
4. Informal internal and stakeholder reviews of the draft plan revision in 2007
5. Formal public comments collected following the publication of the draft plan revision in 2008
6. Formal peer review comment in 2008
7. Internal review from the Service's Southwest and Mountain-Prairie Regions in 2010

The result is a high-quality blueprint for the recovery of the Mojave population of the desert tortoise. The many individuals involved in this effort, both those providing input and those responding to input, deserve thanks and praise for a job well-done. The Transition Habitat Conservancy is involved in managing sensitive tortoise areas.....

Both General Plans and the Tortoise Recovery Plans were conducted publically, with facilitation at all meetings and consultants and experts assisting communities in their planning processes.



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Effective Communication –

Long-term successful implementation of resource protection including headwaters, recharge areas in upstream Sheep Creek which is in the Mojave River Watershed - The THC has implemented numerous conservation and research projects over the last decade in an effort to better understand and manage strategic lands affecting the groundwater basin in the region. These programs and projects have resulted in well over \$15M in successful expenditure of funds and in creation of permanent endowments to fund our conservation lands. A few of these programs and project include:

1. Puma Canyon Ecological Reserve Project 450 of 1000 acres completed in conservation with significant funding from California Wildlife Conservation Board, California Department of Fish and Wildlife, National Fish and Wildlife Foundation (NFWF). Protecting recharge areas in upper Sheep Creek wash where the only known natural infiltration/recharge into the Oeste aquifer (part of the Mojave River hydrologic unit) occurs along the mountain front
2. Some of these acquisitions have been funded through SEPs in conjunction with CDFW and NFWF. Some have been funded by State Waters permits from RWQCB or CDFW via 1600 or 400 series permits for mitigation requirements from Streambed Alteration Agreements or other permits.
3. Desert Wildlife Management Area- purchased and manage 4100 acres of Critical Desert Tortoise habitat on lands THC purchased with funds from California Department of Fish and Wildlife
4. THC Manages Bureau of Land Management lands adjacent to THC properties with state and Federal Funding
5. THC is Authorized by the State Department of Fish and Wildlife to Hold Mitigation Lands and Endowments
6. THC is performing hydrology research on 316 springs and seeps in the Mojave Desert with funding form the BLM and The Nature Conservancy. Report is due in the summer of 2016
7. Performing research on desert tortoise and raven predation with funding from National Fish and Wildlife Foundation
8. Coordination with LA County, Kern and SB County Planning Departments to direct CEQA mitigation to Significant Ecological Areas
9. Coordination with CDFG to direct mitigation to strategic areas targeted for species recovery.

How interim changes and formal changes to watershed project lists will be performed

The Plan requires a Call for Projects to be issued at a minimum of once every two years (June of 2016) but projects can be accepted more often if needed. Per the Plan, the Project List can be amended without re-adoption of the Plan. THC will submit a list of projects currently needing funding. If those projects become funder thorough other mechanisms they will be removed from the list. If other projects become available THC will add them to the list.

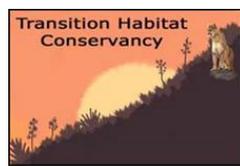
Sincerely,

Jill Bays, President
Transition Habitat Conservancy

Website: www.transitionhabitat.org

Phone: 760-868-1400

E-mail: Jill@transitionhabitat.org



Attachments

1. Authorization to Hold Mitigation Lands
2. Board of Director of Transition Habitat Conservancy
3. CDFW Approved Conceptual Area Preservation Plan, Puma Canyon Ecological Reserve
4. CDFW Approved Conceptual Area Preservation Plan, Portal Ridge
5. USFWS Tortoise Recovery Plan
6. San Bernardino General Plan, Phelan/Pinon Hills Community Plan- *See pages 45-51*
7. Los Angeles county Significant Ecological Areas- part of the General Plan SEA 10 & 17 Joshua Tree and San Andreas Fault SEAs
8. 990 Tax Return
9. Audited Financial Statements by an Independent CPA
10. Cooperative Agreement with Bureau of Land Management
11. Hydro Research Award letter from BLM
12. Letters from Partners about THC's qualifications
13. Projects outlines- **Proper forms to be filled out in detail by June 1st.**

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MEMORANDUM OF UNDERSTANDING

LAHONTAN WATER BOARD SUPPLEMENTAL ENVIRONMENTAL PROJECT PROGRAM WITH TRANSITION HABITAT CONSERVANCY

This document shall serve as a Memorandum of Understanding (“MOU”) by and between the California Regional Water Quality Control Board, Lahontan Region (“Lahontan Water Board”), and the Transition Habitat Conservancy (“Conservancy”). The purpose of the MOU is to establish a list of potential projects that may be implemented pursuant to the Lahontan Water Board’s Supplemental Environmental Project (SEP) Program, approved by Resolution No. R6T-2014-0014 (“Lahontan Water Board SEP Program”).

In 2005, the Conservancy was formed as a California nonprofit public benefit corporation, which is exempt from taxation under Internal Revenue Code section 501(c)(3). The Conservancy operates in the West Mojave Desert to implement the San Bernardino County General Plan, Community Plans adopted for the communities of Phelan and Pinon Hills, the Los Angeles County General Plan, and the Antelope Valley Plan. Specifically, the Conservancy implements the Conservation and Open Space Elements of the San Bernardino Plan, as well as the Significant Ecological Area Plan of Los Angeles County’s Antelope Valley Plan. The Conservancy also implements the U.S. Fish and Wildlife Service’s 2012 Desert Tortoise Recovery Plan.

The projects identified in the various plans are vetted through public stakeholder processes. Respective Boards of Supervisors conduct public stakeholder meetings associated with their respective plans. The U.S. Fish and Wildlife Service developed its Desert Tortoise Recovery Plan through an extensive stakeholder process managed by the Center for Collaborative Policy, which also included input from a designated technical advisory committee.

The Conservancy is also authorized by the California Department of Fish and Wildlife to hold mitigation lands for permits requiring land mitigation associated with temporary and permanent impacts to waters of the state in the West Mojave Desert. The Conservancy currently owns and maintains approximately 7,000 acres of land protecting upstream watersheds, infiltration areas, ephemeral drainages, wildlife habitat, and lands that provide ecosystem function. The Conservancy also conducts spring and seep studies in these areas for the purpose of ensuring water supply to critical habitat areas. The Conservancy has expended over \$15 million to support these efforts in addition to creating permanent endowments to fund continued conservation efforts. The Conservancy updates its project list at a minimum of every two (2) years.

The Conservancy submitted information to the Lahontan Water Board on April 6, 2016, demonstrating that it meets the criteria established by the Lahontan Water Board’s SEP

Transition Habitat Conservancy and Lahontan Water Board
Memorandum of Understanding

Program to identify projects that may qualify as SEPs. The Conservancy also provided information demonstrating its capacity to implement SEPs pursuant to the criteria established by the Lahontan Water Board's SEP Program.

The following terms and conditions of this MOU govern the Conservancy's obligations to identify projects that may qualify as SEPs, to use the funds transferred to it by a discharger in accordance with the Lahontan Water Board's authorizing Administrative Civil Liability Order, and to implement SEPs consistent with the Lahontan Water Board SEP Program, all as more particularly described below. This MOU is effective upon its execution by the Conservancy and the Lahontan Water Board Executive Officer.

1. The Conservancy shall incorporate the SEP Qualification Criteria identified in the Lahontan Water Board SEP Program to identify potential projects that may qualify as a SEP. This shall be incorporated within the Conservancy's stakeholder process used for identifying potential projects.
2. The Conservancy shall submit to the Lahontan Water Board Executive Officer on a biannual basis a list of potential projects, if any, that have been identified via its public process that incorporates local stakeholder outreach and input in selecting and prioritizing potential SEP projects. The first such list was submitted **June 20, 2016**, and shall be updated every two (2) years thereafter (by July 1 of even-numbered years) to reflect potential projects that have been added, removed, or completed. Each potential project shall be submitted using the Lahontan Water Board SEP Project Submittal Form (attached to this MOU as Attachment 1). If the Conservancy has not identified any changes to be made to the list of potential projects, the bi-annual update shall provide notice that no changes have been made to the existing list of potential projects.
3. When a discharger is under an Order of the Lahontan Water Board to pay an administrative civil liability ("liability") for violations and elects to direct a portion of its liability to fund implementation of a SEP identified on the Conservancy's list of potential projects noted in Paragraph 2, above, the Conservancy shall enter into a direct contract with the discharger. The contract between the Conservancy and the discharger shall include the specific language noted within Attachment 2 to the Lahontan Water Board SEP Program (a copy of which is also attached to this MOU as Attachment 2) ("SEP Program Attachment 2"), in addition to whatever additional terms and conditions, upon which the discharger and the Conservancy mutually agree.
4. The Conservancy shall provide quarterly progress reports on each SEP to the Designated Lahontan Water Board Representative commencing on the first day of the fiscal quarter after a contract with a discharger becomes effective and continuing through submittal of the final reports described below. If no activity occurred during a particular quarter, a quarterly report(s) so stating shall be submitted by January 1,

Transition Habitat Conservancy and Lahontan Water Board
Memorandum of Understanding

April 1, July 1, and/or October 1, as applicable.

5. If the discharger does not provide sufficient liability funds to the Conservancy to finance the project, the Conservancy is not required to complete the project or provide additional funding to complete the project, which is consistent with the intent of Paragraph 6 of the SEP Program Attachment 2. That paragraph also intends to provide that the discharger is not obligated to provide additional funding beyond the amount of the liability, unless otherwise agreed.

6. Within thirty (30) days after the applicable SEP Completion Date (as defined in SEP Program Attachment 2), the Conservancy shall submit a certified statement of completion of the SEP ("Certification of Completion"). The Certification of Completion shall be submitted, under penalty of perjury, to the Designated Lahontan Water Board Representative by a responsible corporate official representing the Conservancy. The Certification of Completion shall include following:
 - a. Certification that the SEP has been completed in accordance with the terms of this MOU, the Lahontan Water Board's Order authorizing the use of the liability to fund a SEP, and the Lahontan Water Board's SEP Program. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Lahontan Water Board to evaluate the completion of the SEP and the costs incurred by the Conservancy.

 - b. Certification documenting the expenditures by the Conservancy during the completion period for the SEP. The Conservancy's expenditures may include external payments to outside vendors or contractors performing the SEP. In making such certification, the Conservancy official may rely upon normal company project tracking systems that capture employee time expenditures and external payments to outside vendors, such as environmental and information technology contractors or consultants. The certification cannot include any costs incurred by the Lahontan Water Board for oversight. The Conservancy shall provide any additional information requested by the Designated Lahontan Water Board Representative that is reasonably necessary to verify SEP expenditures.

 - c. Certification that the Conservancy obtained all necessary permits and followed all applicable laws and regulations in the implementation of the SEP, including but not limited to the federal Clean Water Act, California Porter-Cologne Act, and the terms of any permits issued for the SEP.

Transition Habitat Conservancy and Lahontan Water Board
Memorandum of Understanding

7. To ensure compliance with the California Environmental Quality Act (“CEQA”), where necessary, the Conservancy shall provide the Lahontan Water Board with the following applicable document from the lead agency prior to commencing SEP construction:
 - a. Categorical or statutory exemptions relied upon by the CEQA lead agency;
 - b. Negative Declaration if there are no potentially “significant” impacts;
 - c. Mitigated Negative Declaration if there are potentially “significant” impacts but revisions to the project have been made or may be made to avoid or mitigate those potentially significant impacts; or
 - d. Environmental Impact Report (“EIR”).
8. In addition to the Certification of Completion, upon completion of the SEP and at the written request of the Lahontan Water Board Executive Officer, the Conservancy and discharger, at the sole cost of one or both such party, as applicable, shall submit a report prepared by an independent third party(ies), acceptable to the Lahontan Water Board Executive Officer, providing such party’s(ies’) professional opinion that the Conservancy has expended money in the amounts claimed. The audit report shall be provided to the Designated Lahontan Water Board Representative within three (3) months of notice from the Lahontan Water Board Executive Officer to the Conservancy and discharger of the need for an independent third-party financial audit. The audit should not include any costs incurred by the Lahontan Water Board for oversight.
9. Upon the Conservancy’s satisfaction of its SEP obligations under this MOU and completion of each SEP(s) in accordance with the Lahontan Water Board Order authorizing the use of the liability to fund a SEP, and any audit requested by the Lahontan Water Board pursuant to Section 8, above, the Designated Lahontan Water Board Representative shall send the Conservancy and discharger a letter recognizing satisfactory completion of their respective obligations under the terms of each applicable Order authorizing the completion of a SEP. This letter shall terminate any further obligations of the Conservancy and discharger under this MOU and applicable Order for such applicable SEP.
10. In the event that the Conservancy and/or each applicable discharger are not able to demonstrate to the reasonable satisfaction of the Lahontan Water Board Executive Officer that the entire amount of funds allocated under an Order authorizing a SEP has been spent on completing the SEP, the discharger shall pay to the State Water Resources Control Board the difference between the funds allocated under the Order authorizing a SEP and the amount the Conservancy and the discharger can demonstrate was actually spent on the SEP. Alternatively, the Lahontan Water

Transition Habitat Conservancy and Lahontan Water Board
Memorandum of Understanding

Board may approve the use of the surplus funds for a different SEP consistent with its and the State Water Resources Control Board's SEP Policies.

11. At any time during which the Conservancy is not actively implementing a SEP or performing any applicable post-SEP obligations described in this MOU, either party to the MOU is entitled to terminate this MOU upon thirty (30) days' written notice to the other party.

IT IS SO AGREED.

California Regional Water Quality Control Board – Lahontan Region

By: _____
Patty Z. Kouyoumdjian
Executive Officer

Date: _____

Transition Habitat Conservancy

By: _____
Jill Bays
Director

Date: _____

Attachment 1: Lahontan Water Board SEP Project Submittal Form

Attachment 2: Copy of Attachment 2 to the Lahontan Water Board SEP Program

ATTACHMENT 1

**LAHONTAN WATER BOARD SEP PROJECT SUBMITTAL
FORM LAHONTAN WATER BOARD SEP PROGRAM
PROJECT SUBMITTAL FORM**

I. Project Proponent Information

MOU Name	
Name of Primary Contact for MOU	
Mailing Address	
Phone Number	
E-Mail	
Name of Fiscal Agent for Project	
Mailing Address	
Phone Number	
E-Mail	
Other Cooperating Agencies/Organizations/Stakeholders	

(List additional contact information as appropriate)

II. Project Information

Project Title:				
Project Category:	<input type="checkbox"/> Restoration	<input type="checkbox"/> Stormwater/Flood Control	<input type="checkbox"/> Water Supply/Wastewater	<input type="checkbox"/> Technical Study
Project Priority:	<i>(Indicate High, Medium, or Low Priority)</i>			
Project Description:	<i>(Describe project in 500 characters or less. If project can be implemented in phases, provide a description of each phase in addition to overall project description.)</i>			
Project Location – City and County:	<i>(Include address, latitude, and longitude data as appropriate.)</i>			
Affected Watershed and/or Groundwater Basin:	<i>(Identify surface and ground waters that will benefit from the project. Include Hydrologic Unit Code and/or Groundwater Basin Number.)</i>			
Estimated Project Budget:	<i>(If project can be implemented in phases, provide an estimated budget for each phase, in addition to overall budget)</i>			
Expected Benefits/Improvements to Water Quality and/or Beneficial Uses:	<i>(In 500 characters or less.)</i>			
Estimated Project Duration: (In Months)				

Project Readiness:	<i>(Discuss CEQA status, permit status, landowner agreements, etc. in 500 characters or less)</i>
--------------------	---

III. Optional Project Information

(Discuss all topics that apply, 500 characters or less for each topic.)

Identify Public Health and Safety Concerns Addressed by Proposed Project	
Identify Environmental Health and Safety Concerns Addressed by Proposed Project	
Identify Potential Project Benefits to Other Regional Water Boards or to the State of California	
Identify Other Project Funding Sources, and if Additional Funds Are Needed to Close a Funding Gap	
Identify If Potential SEP Funding May be Used to Leverage Matching Funds	
Identify Environmental Justice Concerns that May Be Addressed by the Project	
Identify Disadvantaged Community Concerns that May Be Addressed by the Project	
Identify Efficiencies That May Be Improved By the Project (e.g., Databases, Automation, System Enhancements, etc.)	

Identify State Water Priorities That the Project Supports. This Can Include Priorities Established by the Lahontan Water Board (Including Triennial Review Priorities), Cal EPA, California Legislature, or the Governor's Office.	<i>(Links to the priorities are listed on following page)</i>
--	---

List of Websites for State Water Priorities

Lahontan Water Board priorities:

http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/index.shtml

State Water Board's Strategic Plan:

http://www.swrcb.ca.gov/water_issues/hot_topics/strategic_plan/2007update.shtml

Cal EPA Strategic Vision Goals:

<http://www.calepa.ca.gov/Publications/Reports/2000/StrategicVis.pdf>

California Legislature:

<http://www.legislature.ca.gov/>

Governor's Office:

<https://www.gov.ca.gov/home.php>

ATTACHMENT 2

**COPY OF ATTACHMENT 2 TO THE
LAHONTAN WATER BOARD SEP PROGRAM**

PROPOSED

ATTACHMENT 2

TEMPLATE LANGUAGE FOR PARTNER ORGANIZATION/ DISCHARGER AGREEMENTS

This document shall serve as a Memorandum of Understanding by and between PARTNER ORGANIZATION (XXX) and DISCHARGER (XXX) for the Supplemental Environmental Project (SEP) authorized by California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) Order No. R6-xxxx-xxx (the Order) and described in detail therein (the Project).

1. Pursuant to the terms of the Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order entered into between the Lahontan Water Board Prosecution Team and DISCHARGER, DISCHARGER agrees to donate, and PARTNER ORGANIZATION commits to receive funding in the amount of \$xxx,xxx (Funding) to be utilized for implementation of the Project.
2. As a condition to the donation, PARTNER ORGANIZATION agrees as follows:
 - a. To serve as the Implementing Party for the Project, as detailed in the Order;
 - b. To cooperate with DISCHARGER to meet the SEP requirements set forth in the Order, the terms of which are attached hereto as Exhibit X;
 - c. To return to DISCHARGER any unexpended portion of the Funding to the extent not spent on the Project.
3. PARTNER ORGANIZATION agrees that should it publicize the Project it shall state in a prominent manner that the Project is being funded as part of a settlement of an enforcement action by the Lahontan Water Board against DISCHARGER.
4. This MOU and the parties' relations shall be construed and governed by the laws of the State of California without regard to conflict-of-laws rules or principles.
5. Nothing contained in this MOU shall at any time constitute, be deemed to constitute or be construed to create a relationship among DISCHARGER and PARTNER ORGANIZATION of partnership, joint venture, agency, or any other relationship creating fiduciary, quasi-fiduciary or similar duties and obligation, or that would otherwise subject DISCHARGER and PARTNER ORGANIZATION to joint and several or vicarious liability in favor of any third party.
6. PARTNER ORGANIZATION acknowledges that the Funding is the full extent of DISCHARGER's obligation hereunder and that PARTNER ORGANIZATION is responsible for securing sufficient other resources as may be needed to complete

the Project in accordance with the Order in the event the Project cannot be completed with the amount of Funding being provided by DISCHARGER.

7. This MOU may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to constitute one and the same instrument.

(SIGNATURE BLOCKS FOR PARTNER ORGANIZATION AND DISCHARGER)

PROPOSED

**LAHONTAN WATER BOARD SEP PROGRAM
PROJECT SUBMITTAL FORM**

I. Project Proponent Information

MOU Name	Transition Habitat Conservancy
Name of Primary Contact for MOU	Jill Bays
Mailing Address	P.O. Box 720026
Phone Number	760-868-5136
E-Mail	jill@transitionhabitat.org
Name of Fiscal Agent for Project	Same as above
Mailing Address	
Phone Number	
E-Mail	
Other Cooperating Agencies/Organizations/Stakeholders	

(List additional contact information as appropriate)

II. Project Information

Project Title:	Abengoa Parcel Monitoring Well			
Project Category:	<input type="checkbox"/> Restoration	<input type="checkbox"/> Stormwater/Flood Control	<input checked="" type="checkbox"/> Water Supply/Wastewater	<input checked="" type="checkbox"/> Technical Study
Project Description:	THC recently purchased 250 acres immediately west of the Abengoa solar plant in Harper Valley. This project would consist of providing funding for Transition Habitat to install a monitoring well on their property and outfitting the well with continuous groundwater level monitoring equipment. Baseline groundwater sampling would be conducted to evaluate groundwater quality (cations/anions/trace metals).			
Project Location – City and County:	Lockhart / Hinkley, San Bernardino County The center coordinate for this parcel is: Lat 35.034211°, Lon -117.374263° WGS 84			
Affected Watershed and/or Groundwater Basin:	The project is located in the Coyote-Cuddeback Lakes Hydrologic Unit- Code: 18090207 in the Harper Valley Groundwater Basin.			
Estimated Project Budget:	<u>\$30,000.</u> Inclusive of permitting, well construction and development, sampling and analysis, purchase and installation of a transducer/datalogger setup, and reporting by a California Professional Geologist/Certified Hydrogeologist.			
Expected Benefits/Improvements to Water Quality and/or Beneficial Uses:	Overdraft and continual decreases in groundwater elevation are a continuing area of concern. Monitoring data would benefit land managers and agencies.			
Estimated Project Duration: (In Months)	12 months			
Project Readiness:	Transition Habitat's Hydrology partner, Andy Zdon and Associates, provided the initial write-up for this study, and is eager to work on the project if it is funded. The project would not have any significant environmental impacts and CEQA compliance for the project could fall under a categorical exemption, such as minor alteration to land (15304) or information collection (15306). The project would require a simple San Bernardino County well permit.			

III. Optional Project Information

(Discuss all topics that apply, 500 characters or less for each topic.)

Identify Public Health and Safety Concerns Addressed by Proposed Project	
Identify Environmental Health and Safety Concerns Addressed by Proposed Project	
Identify Potential Project Benefits to Other Regional Water Boards or to the State of California	
Identify Other Project Funding Sources, and if Additional Funds Are Needed to Close a Funding Gap	
Identify If Potential SEP Funding May be Used to Leverage Matching Funds	
Identify Environmental Justice Concerns that May Be Addressed by the Project	
Identify Disadvantaged Community Concerns that May Be Addressed by the Project	
Identify Efficiencies That May Be Improved By the Project (e.g., Databases, Automation, System Enhancements, etc.)	
Identify State Water Priorities That the Project Supports. This Can Include Priorities Established by the Lahontan Water Board (Including Triennial Review Priorities), Cal EPA, California Legislature, or the Governor's Office.	

**LAHONTAN WATER BOARD SEP PROGRAM
PROJECT SUBMITTAL FORM**

I. Project Proponent Information

MOU Name	Transition Habitat Conservancy
Name of Primary Contact for MOU	Jill Bays
Mailing Address	P.O. Box 720026
Phone Number	760-868-5136
E-Mail	jill@transitionhabitat.org
Name of Fiscal Agent for Project	Same as above
Mailing Address	
Phone Number	
E-Mail	
Other Cooperating Agencies/Organizations/Stakeholders	

(List additional contact information as appropriate)

II. Project Information

Project Title:	Sheep Creek Recharge Project			
Project Category:	<input type="checkbox"/> Restoration	<input checked="" type="checkbox"/> Stormwater/Flood Control	<input checked="" type="checkbox"/> Water Supply/Wastewater	<input checked="" type="checkbox"/> Technical Study
Project Description:	To understand the current regional water balance model for the Sheep Creek watershed locally and in the greater context of the Mojave River Basin, and to evaluate the influence of Sheep Creek Wash on that water balance model. The project will also evaluate the impact a Sheep Creek channelization project would have on groundwater influx rates and how the change will affect the overall water balance for the Mojave River Basin.			
Project Location – City and County:	Pinon Hills / Phelan, San Bernardino County Sheep Creek Wash Coordinates: Lat 34.401894°, Lon -117.609065° WGS 84			
Affected Watershed and/or Groundwater Basin:	Surface waters and groundwater in Sheep Creek Wash and the El Mirage Valley Groundwater Basin will be affected. The project is located in the Mojave Hydrologic Unit- Code: 18090208			
Estimated Project Budget:	<u>\$29,100</u> A stand-alone report will be prepared upon the completion of this work.			
Expected Benefits/Improvements to Water Quality and/or Beneficial Uses:	Better understand Sheep Creek Wash recharge locally and within the greater context of the Mojave River Basin.			
Estimated Project Duration: (In Months)	10 months			
Project Readiness:	Transition Habitat’s Hydrology partner, Andy Zdon and Associates, provided the initial write-up for this study, and is eager to work on the project if it is funded. The project consists of data collection and data review only. No permits are required, and The project would qualify for a categorical exemption for “Information Collection” (15306).			

III. Optional Project Information

(Discuss all topics that apply, 500 characters or less for each topic.)

Identify Public Health and Safety Concerns Addressed by Proposed Project	
Identify Environmental Health and Safety Concerns Addressed by Proposed Project	
Identify Potential Project Benefits to Other Regional Water Boards or to the State of California	
Identify Other Project Funding Sources, and if Additional Funds Are Needed to Close a Funding Gap	
Identify If Potential SEP Funding May be Used to Leverage Matching Funds	
Identify Environmental Justice Concerns that May Be Addressed by the Project	
Identify Disadvantaged Community Concerns that May Be Addressed by the Project	
Identify Efficiencies That May Be Improved By the Project (e.g., Databases, Automation, System Enhancements, etc.)	
Identify State Water Priorities That the Project Supports. This Can Include Priorities Established by the Lahontan Water Board (Including Triennial Review Priorities), Cal EPA, California Legislature, or the Governor’s Office.	

**LAHONTAN WATER BOARD SEP PROGRAM
PROJECT SUBMITTAL FORM**

I. Project Proponent Information

MOU Name	Transition Habitat Conservancy
Name of Primary Contact for MOU	Jill Bays
Mailing Address	P.O. Box 720026
Phone Number	760-868-5136
E-Mail	jill@transitionhabitat.org
Name of Fiscal Agent for Project	Same as above
Mailing Address	
Phone Number	
E-Mail	
Other Cooperating Agencies/Organizations/Stakeholders	

(List additional contact information as appropriate)

II. Project Information

Project Title:	McDonald Well Sourcing			
Project Category:	<input type="checkbox"/> Restoration	<input type="checkbox"/> Stormwater/Flood Control	<input checked="" type="checkbox"/> Water Supply/Wastewater	<input checked="" type="checkbox"/> Technical Study
Project Description:	To understand the recharge source of McDonald Well, one of a few spots in this region of the West Mojave where surface freshwater is available even during water stressed periods. Field activities will focus on geochemical sampling from 1) plausible recharge areas above Cuddeback Lake, 2) water beneath Cuddeback Lake, 3) McDonald Well and any springs in the general area, and 4) groundwater near or beneath Harper Lake. In addition, tritium, noble gases, and radiocarbon will be measured on a limited number of sites to facilitate age and recharge elevation determination.			
Project Location – City and County:	Lockhart / Hinkley, San Bernardino County The spring site is located for this parcel is: Lat 35.115483°, Lon -117.374042° WGS 84			
Affected Watershed and/or Groundwater Basin:	Surface waters at the well/spring site would be affected. The project is located in the Coyote-Cuddeback Lakes Hydrologic Unit- Code: 18090207 in the Harper Valley Groundwater Basin.			
Estimated Project Budget:	Results will be presented as written summaries with interpretation, figures, and map illustrations. The total cost for this project would be <u>\$25,000</u> .			
Expected Benefits/Improvements to Water Quality and/or Beneficial Uses:	Better understand recharge source(s) and also constrain the groundwater recharge rate and subsurface flow from the recharge areas to McDonald Well.			
Estimated Project Duration: (In Months)	9 months			
Project Readiness:	Transition Habitat’s Hydrology partner, Andy Zdon and Associates, provided the initial write-up for this study, and is eager to work on the project if it is funded. The project consists of information collection only, and all sites are on BLM public land. No permits are needed. The project would qualify for a categorical exemption for “Information Collection” (15306). Andy Zdon and Associates and Transition Habitat Conservancy also have BLM permission to access and study the region including well and spring sites. No additional access would need to be negotiated			

III. Optional Project Information

(Discuss all topics that apply, 500 characters or less for each topic.)

Identify Public Health and Safety Concerns Addressed by Proposed Project	
Identify Environmental Health and Safety Concerns Addressed by Proposed Project	
Identify Potential Project Benefits to Other Regional Water Boards or to the State of California	
Identify Other Project Funding Sources, and if Additional Funds Are Needed to Close a Funding Gap	
Identify If Potential SEP Funding May be Used to Leverage Matching Funds	
Identify Environmental Justice Concerns that May Be Addressed by the Project	
Identify Disadvantaged Community Concerns that May Be Addressed by the Project	
Identify Efficiencies That May Be Improved By the Project (e.g., Databases, Automation, System Enhancements, etc.)	
Identify State Water Priorities That the Project Supports. This Can Include Priorities Established by the Lahontan Water Board (Including Triennial Review Priorities), Cal EPA, California Legislature, or the Governor's Office.	

**LAHONTAN WATER BOARD SEP PROGRAM
PROJECT SUBMITTAL FORM**

I. Project Proponent Information

MOU Name	Transition Habitat Conservancy
Name of Primary Contact for MOU	Jill Bays
Mailing Address	P.O. Box 720026
Phone Number	760-868-5136
E-Mail	jill@transitionhabitat.org
Name of Fiscal Agent for Project	Same as above
Mailing Address	
Phone Number	
E-Mail	
Other Cooperating Agencies/Organizations/Stakeholders	

(List additional contact information as appropriate)

II. Project Information

Project Title:	Cuddeback Lake Parcel			
Project Category:	<input checked="" type="checkbox"/> Restoration	<input checked="" type="checkbox"/> Stormwater/Flood Control	<input checked="" type="checkbox"/> Water Supply/Wastewater	<input type="checkbox"/> Technical Study
Project Description:	Acquire a 160-acre parcel that contains Waters of the State land in the northern portion of the Fremont-Kramer Desert Wildlife Management Area. The parcel spans an entire section of Cuddeback Dry Lake, and is in the proximity of other parcels actively managed by Transition Habitat Conservancy. The landowner is very willing to sell this property.			
Project Location – City and County:	Atolia / Hinkley, San Bernardino County The center coordinate for this parcel is: Lat 35.279268°, Lon -117.480079° WGS 84			
Affected Watershed and/or Groundwater Basin:	Surface and ground waters in Cuddeback Dry Lake would benefit. The project is located in the Coyote-Cuddeback Lakes Hydrologic Unit- Code: 18090207 in the Cuddeback Valley Groundwater Basin.			
Estimated Project Budget:	The total cost for the acquisition of this property would be \$88,000			
Expected Benefits/Improvements to Water Quality and/or Beneficial Uses:	Acquisition of land that contains Waters of the State			
Estimated Project Duration: (In Months)	6 – 12 months for the acquisition once funding becomes available			
Project Readiness:	Landowner has expressed interest in selling his parcel			

III. Optional Project Information

(Discuss all topics that apply, 500 characters or less for each topic.)

Identify Public Health and Safety Concerns Addressed by Proposed Project	
Identify Environmental Health and Safety Concerns Addressed by Proposed Project	
Identify Potential Project Benefits to Other Regional Water Boards or to the State of California	
Identify Other Project Funding Sources, and if Additional Funds Are Needed to Close a Funding Gap	
Identify If Potential SEP Funding May be Used to Leverage Matching Funds	
Identify Environmental Justice Concerns that May Be Addressed by the Project	
Identify Disadvantaged Community Concerns that May Be Addressed by the Project	
Identify Efficiencies That May Be Improved By the Project (e.g., Databases, Automation, System Enhancements, etc.)	
Identify State Water Priorities That the Project Supports. This Can Include Priorities Established by the Lahontan Water Board (Including Triennial Review Priorities), Cal EPA, California Legislature, or the Governor's Office.	

**LAHONTAN WATER BOARD SEP PROGRAM
PROJECT SUBMITTAL FORM**

I. Project Proponent Information

MOU Name	Transition Habitat Conservancy
Name of Primary Contact for MOU	Jill Bays
Mailing Address	P.O. Box 720026
Phone Number	760-868-5136
E-Mail	jill@transitionhabitat.org
Name of Fiscal Agent for Project	Same as above
Mailing Address	
Phone Number	
E-Mail	
Other Cooperating Agencies/Organizations/Stakeholders	

(List additional contact information as appropriate)

II. Project Information

Project Title:	West Mojave Abandoned Well Survey			
Project Category:	<input type="checkbox"/> Restoration	<input type="checkbox"/> Stormwater/Flood Control	<input checked="" type="checkbox"/> Water Supply/Wastewater	<input checked="" type="checkbox"/> Technical Study
Project Description:	Survey open wells on BLM land to identify unsecured and unused wells that present key risks to groundwater quality in the Western Mojave Desert. Work would consist of surveying the area south of the Garlock/Randsburg Road, east of the Sierra Nevada, west of U.S. Highway 395, and north of the San Gabriel Mountains. As part of the deliverables for this project, a complete inventory of wells along with recommendations and costs to abandon or retrofit the wells (for potential monitoring) would be included in the final report. Transition Habitat has already completed a portion of this survey in the Fremont-Kramer area.			
Project Location – City and County:	South of Garlock Road, East of the Sierra Nevada, West of Highway 395, and North of the San Gabriel Mountains within the Mojave Desert Portions of San Bernardino, Los Angeles, and Kern Counties			
Affected Watershed and/or Groundwater Basin:	The project would take place within the Hydrologic Units of the Antelope-Fremont Valleys (Code 18090206) and Coyote-Cuddeback Lakes (Code 18090207). Affected groundwater basins include Fremont Valley, Cuddeback Lake, Harper Lake, El Mirage, Middle Mojave River Valley, and the Antelope Valley Groundwater Basin.			
Estimated Project Budget:	\$36,000.			
Expected Benefits/Improvements to Water Quality and/or Beneficial Uses:	Identify abandoned wells which may present risks to groundwater quality. Provide inventory and recommendations/costs for problem wells.			
Estimated Project Duration: (In Months)	12 months			
Project Readiness:	Transition Habitat’s Hydrology partner, Andy Zdon and Associates, provided the initial write-up for this study, and is eager to work on the project if it is funded. The project consists of information collection only and no permits are needed. The project would qualify for a categorical exemption for “Information Collection” (15306). All sites to visit are on BLM public land, so access is not an issue. In addition, Andy Zdon and THC have permission from BLM to access, survey, and monitor wells and spring sites in this region of the Mojave Desert.			

III. Optional Project Information

(Discuss all topics that apply, 500 characters or less for each topic.)

Identify Public Health and Safety Concerns Addressed by Proposed Project	
Identify Environmental Health and Safety Concerns Addressed by Proposed Project	
Identify Potential Project Benefits to Other Regional Water Boards or to the State of California	
Identify Other Project Funding Sources, and if Additional Funds Are Needed to Close a Funding Gap	
Identify If Potential SEP Funding May be Used to Leverage Matching Funds	
Identify Environmental Justice Concerns that May Be Addressed by the Project	
Identify Disadvantaged Community Concerns that May Be Addressed by the Project	
Identify Efficiencies That May Be Improved By the Project (e.g., Databases, Automation, System Enhancements, etc.)	
Identify State Water Priorities That the Project Supports. This Can Include Priorities Established by the Lahontan Water Board (Including Triennial Review Priorities), Cal EPA, California Legislature, or the Governor's Office.	

**LAHONTAN WATER BOARD SEP PROGRAM
PROJECT SUBMITTAL FORM**

I. Project Proponent Information

MOU Name	Transition Habitat Conservancy
Name of Primary Contact for MOU	Jill Bays
Mailing Address	P.O. Box 720026
Phone Number	760-868-5136
E-Mail	jill@transitionhabitat.org
Name of Fiscal Agent for Project	Same as above
Mailing Address	
Phone Number	
E-Mail	
Other Cooperating Agencies/Organizations/Stakeholders	

(List additional contact information as appropriate)

II. Project Information

Project Title:	Harper Lake / Black's Ranch Well			
Project Category:	<input checked="" type="checkbox"/> Restoration	<input checked="" type="checkbox"/> Stormwater/Flood Control	<input checked="" type="checkbox"/> Water Supply/Wastewater	<input type="checkbox"/> Technical Study
Project Description:	<p>The historic Black's Ranch Well area, located on the southeast edge of Harper Lake, contains Waters of the State; has an existing well; is a potential monitoring location for groundwater levels, water quality, and chromium VI (currently a "non-detect data point"); and is an important site for wildlife/habitat.</p> <p>Phase 1: Acquire the two 40-acre parcels Phase 2: Install a monitoring well onsite Phase 3: Improve/Restore for riparian area function and habitat</p>			
Project Location – City and County:	Hinkley, San Bernardino County Well site is at Lat 35.017098°, Lon -117.229169° WGS 84			
Affected Watershed and/or Groundwater Basin:	Surface and ground waters in Harper Lake would benefit. The project is located in the Coyote-Cuddeback Lakes Hydrologic Unit- Code: 18090207 in the Harper Valley Groundwater Basin.			
Estimated Project Budget:	<p>Phase 1: Acquisition- <u>\$62,500</u> for both parcels (80 acres). This includes purchase price, escrow costs, and Phase 1 ESA Phase 2: Install monitoring well- <u>\$15,000</u> for well installation, permitting, and baseline sampling (one event) Phase 3: Restore historic riparian area- <u>\$50,000</u> to install small solar pump at existing well for consistent, low gallons per minute delivery, install fence enclosure, plant cottonwoods, and additional permaculture improvements to maximize usage of available water. Total Project Budget: \$127,500</p>			
Expected Benefits/Improvements to Water Quality and/or Beneficial Uses:	Monitor water quality in this region including the Hinkley Chromium (VI) plume. Provide and improve habitat for important migratory birds and other wildlife in this neglected portion of Harper Lake. It would be a great companion piece to BLM's proposed Harper Lake ACEC on the west side of the lake. Finally, this acquisition would preserve an important historic site (Black's Ranch Well) in the region.			
Estimated Project Duration: (In Months)	15 months for all three phases of the project. Then perpetual monitoring of well and riparian restoration			
Project Readiness:	The landowner has signed a Purchase and Sale Agreement with Transition Habitat Conservancy. This agreement is set to expire in August, but we are confident that we could extend it if a project funding source is identified.			

III. Optional Project Information

(Discuss all topics that apply, 500 characters or less for each topic.)

Identify Public Health and Safety Concerns Addressed by Proposed Project	Water quality data, and a monitoring data point for the Hinkley Plume
Identify Environmental Health and Safety Concerns Addressed by Proposed Project	Same as above
Identify Potential Project Benefits to Other Regional Water Boards or to the State of California	
Identify Other Project Funding Sources, and if Additional Funds Are Needed to Close a Funding Gap	
Identify If Potential SEP Funding May be Used to Leverage Matching Funds	
Identify Environmental Justice Concerns that May Be Addressed by the Project	
Identify Disadvantaged Community Concerns that May Be Addressed by the Project	
Identify Efficiencies That May Be Improved By the Project (e.g., Databases, Automation, System Enhancements, etc.)	

<p>Identify State Water Priorities That the Project Supports. This Can Include Priorities Established by the Lahontan Water Board (Including Triennial Review Priorities), Cal EPA, California Legislature, or the Governor's Office.</p>	
---	--

**LAHONTAN WATER BOARD SEP PROGRAM
PROJECT SUBMITTAL FORM**

I. Project Proponent Information

MOU Name	Transition Habitat Conservancy
Name of Primary Contact for MOU	Jill Bays
Mailing Address	P.O. Box 720026
Phone Number	760-868-5136
E-Mail	jill@transitionhabitat.org
Name of Fiscal Agent for Project	Same as above
Mailing Address	
Phone Number	
E-Mail	
Other Cooperating Agencies/Organizations/Stakeholders	

(List additional contact information as appropriate)

II. Project Information

Project Title:	Bird Spring Parcel			
Project Category:	<input checked="" type="checkbox"/> Restoration	<input checked="" type="checkbox"/> Stormwater/Flood Control	<input checked="" type="checkbox"/> Water Supply/Wastewater	<input type="checkbox"/> Technical Study
Project Description:	Acquire a 40-acre parcel that contains a spring, known as Bird Spring, located in the Fremont-Kramer Desert Wildlife Management Area. This ecologically important site provides the only reliable surface water in the entire Gravel Hills region and is heavily used by wildlife including resident and migratory birds. Transition Habitat Conservancy actively manages parcels nearby and throughout this region			
Project Location – City and County:	Lockhart / Hinkley, San Bernardino County The spring site is located at: Lat 35.194691°, Lon -117.314590° WGS 84			
Affected Watershed and/or Groundwater Basin:	The project is located in the Coyote-Cuddeback Lakes Hydrologic Unit- Code: 18090207 in the Harper Valley Groundwater Basin.			
Estimated Project Budget:	The total cost for the acquisition of this property would be \$31,700.			
Expected Benefits/Improvements to Water Quality and/or Beneficial Uses:	The spring site would benefit from active management and monitoring			
Estimated Project Duration: (In Months)	12 months for the acquisition once funding becomes available			
Project Readiness:	Transition Habitat Conservancy has contacted the landowner in the past, but has not recently pursued the acquisition due to limited funding.			

III. Optional Project Information

(Discuss all topics that apply, 500 characters or less for each topic.)

Identify Public Health and Safety Concerns Addressed by Proposed Project	
Identify Environmental Health and Safety Concerns Addressed by Proposed Project	
Identify Potential Project Benefits to Other Regional Water Boards or to the State of California	
Identify Other Project Funding Sources, and if Additional Funds Are Needed to Close a Funding Gap	
Identify If Potential SEP Funding May be Used to Leverage Matching Funds	
Identify Environmental Justice Concerns that May Be Addressed by the Project	
Identify Disadvantaged Community Concerns that May Be Addressed by the Project	
Identify Efficiencies That May Be Improved By the Project (e.g., Databases, Automation, System Enhancements, etc.)	
Identify State Water Priorities That the Project Supports. This Can Include Priorities Established by the Lahontan Water Board (Including Triennial Review Priorities), Cal EPA, California Legislature, or the Governor's Office.	

ENCLOSURE 3

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Conservation projects



Our Team



- ❑ 11 Volunteer Board Members
- ❑ 6 Staff
- ❑ 3 offices- Pinon Hills, Joshua Tree, Lancaster
- ❑ 3 4WD Trucks
- ❑ 2 ATV's for restoration work
- ❑ 80 active volunteers

Transition Habitat Conservancy

Puma Canyon Project



Sheep Creek to Mescal Creek
Headwaters Land Acquisition Project

Sheep Creek Alluvial Fan and Project area



Transition Habitat Conservancy



Partnerships

- CDFW
- Wildlife Conservation Board (funding)
- The Nature Conservancy
- National Fish Wildlife Foundation (funding)
- State Water Quality Control Board
- Local Water and Parks District (PPHCSD)

Transition Habitat Conservancy

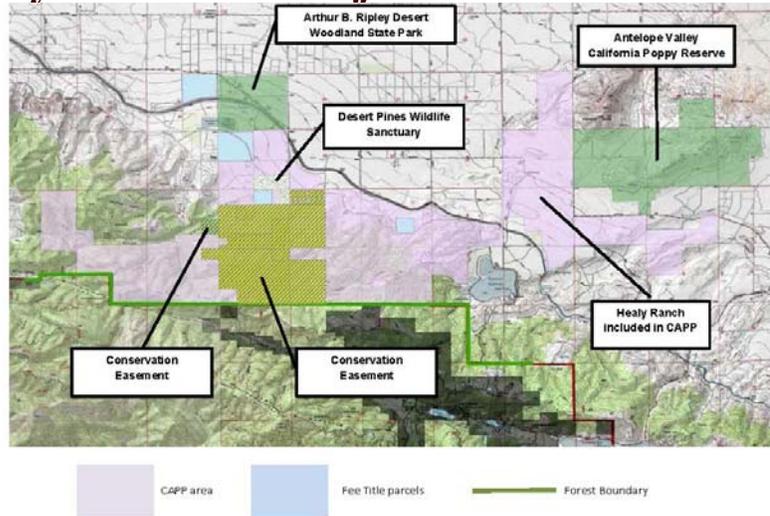


Portal Ridge Wildlife Area Location: Antelope Valley CA



Transition Habitat Conservancy

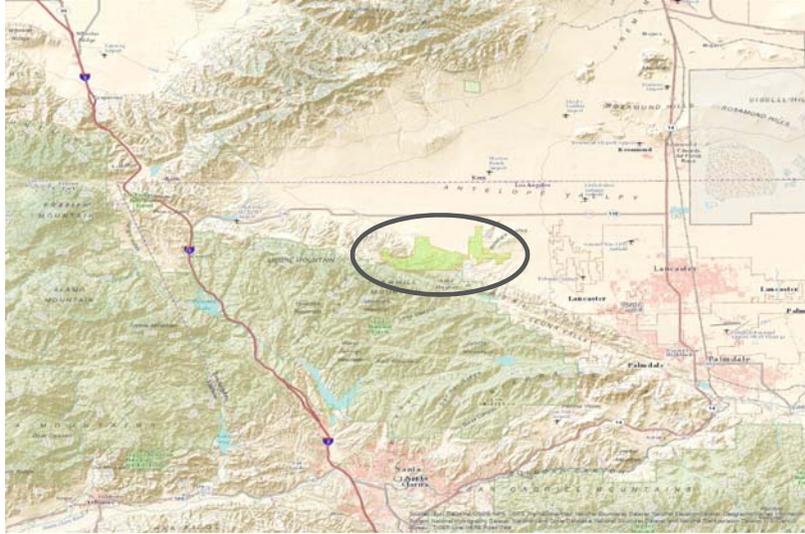
Portal Ridge Wildlife Area Antelope Valley Headwaters Project



Portal Ridge Wildlife Preserve



Located on the Southern Edge of Antelope Valley & the North Slope of Portal Ridge



Portal Ridge Wildlife Preserves seen from CA State Poppy Reserve Visitor's Center
Portal Ridge is THE view shed of the Poppy Reserve



Portal Ridge Wildlife Preserve ... A Transition Awaits



Portal Ridge Partners

- CDFW
- USFS
- LA County Planning and Supervisor's office
- Kern county Planning Dept.
- TPL, TNC, 6 Town Councils
- LA County Parks
- State Parks
- Water Quality Control Board

Transition Habitat Conservancy



Springs Seeps and Wells



Transition Habitat Conservancy



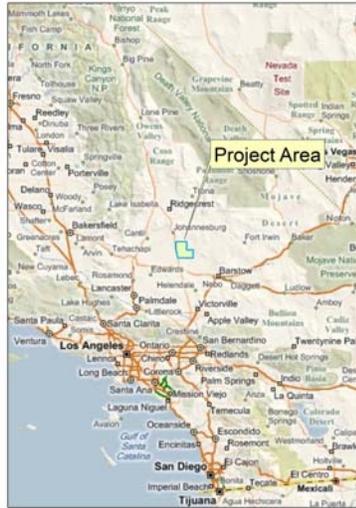
Ephemeral Wetlands



Transition Habitat Conservancy

DWMA

Fremont-Kramer DWMA Location Map



Transition Habitat Conservancy

DWMA



Transition Habitat Conservancy



DWMA

- ❑ Critical Desert Tortoise Habitat
- ❑ Desert Tortoise
- ❑ Mohave Ground Squirrel
- ❑ Golden Eagle
- ❑ White Pygmy Poppy
- ❑ Barstow Woolly Sunflower

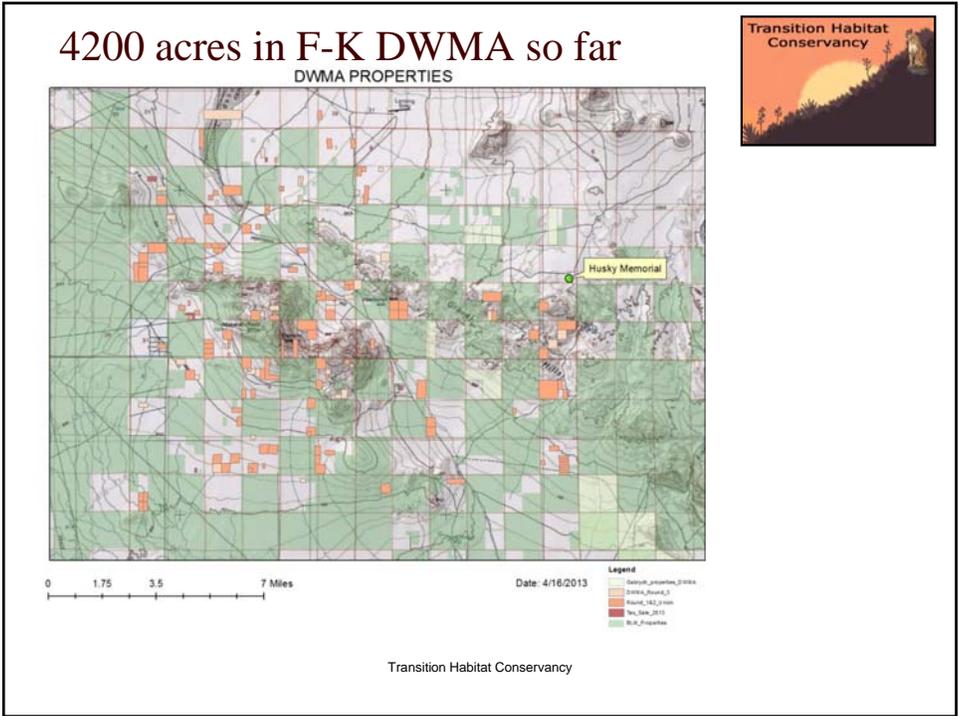
Transition Habitat Conservancy



Cooperative efforts

- ❑ Managing our lands and BLM lands
 - OHV Restoration grant \$305,000 3 year grant
 - NFWF \$50,000 eagle mitigation funds restoration in Black Mountain
 - \$190,000 Grant from BLM for Mojave Spring Survey of all Springs & Seeps in Mojave desert

Transition Habitat Conservancy





Transition Habitat Conservancy

- (760) 868-5136
- PO Box 720026, Pinon Hills, CA 92372
- www.TransitionHabitat.org
- Jill@TransitionHabitat.org

Transition Habitat Conservancy

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ENCLOSURE 4

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

RESOLUTION NO. R6T-2014-0014

**LAHONTAN WATER BOARD
SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP) PROGRAM**

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

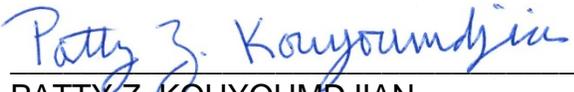
1. The Lahontan Water Board has for approximately one year been evaluating its Enforcement Program and has identified a number of actions that will improve the program's efficiency and effectiveness. One such action is the development of a region-specific program for identifying, approving, and implementing Supplemental Environmental Projects (SEPs).
2. The Lahontan Water Board supports including SEPs as a part of administrative civil liability settlements. SEPs provide a strategic mechanism to make a portion of civil liabilities available for the kinds of projects identified as priorities by the Lahontan Water Board.
3. Currently, extensive Lahontan Water Board staff resources are spent negotiating, developing, and overseeing SEPs. This process has typically been conducted in confidential settlement negotiations, and by the very nature of confidentiality does not provide public transparency in how various SEPs are proposed to the Lahontan Water Board.
4. A region-specific SEP program will provide guidance to Lahontan Water Board staff and dischargers in developing SEPs that further the Lahontan Water Board's priorities consistent with the State Water Resources Control Board's SEP Policy.
5. As a part of the region-specific SEP program, the Lahontan Water Board supports the establishment of partnerships with independent third parties (partner organizations) to manage SEP accounts and to implement SEPs consistent with the Lahontan Water Board's expressed priorities.
6. Using SEP accounts with partner organizations is expected to reduce staff's SEP oversight costs over time. The partner organizations will be responsible for the development and administration of the SEPs.
7. Using SEP accounts will direct monies toward projects that are already vetted through local stakeholder processes and increase the transparency in how SEP monies are used.

- 8. The Lahontan Water Board considers a pilot program to be an appropriate mechanism to explore the feasibility of implementing SEP accounts before implementing this program on a region-wide basis. Such a pilot program is the subject of a separate Resolution.
- 9. The Lahontan Water Board has notified interested parties through the Lahontan Region of its intent to adopt this Resolution by posting to a list server and on the Water Board's web site.
- 10. The Lahontan Water Board, in a public meeting, heard and considered all comments regarding the Resolution.

THEREFORE, BE IT RESOLVED THAT:

- 1. The Lahontan Water Board approves the Lahontan Water Board SEP Program (Attachment A).
- 2. The Lahontan Water Board directs staff to post the Lahontan Water Board SEP Program in a prominent location on the Lahontan Water Board's web site.
- 3. The Lahontan Water Board directs staff to delay full implementation of the Lahontan Water Board SEP Program until a pilot program with the Truckee River Watershed Council is completed.
- 4. The Lahontan Water Board authorizes the Lahontan Water Board Executive Officer to modify the attached Lahontan Water Board SEP Program (and its respective attachments) for minor technical changes or for consistency with updated requirements and policies.

I, Patty Z. Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on February 12, 2014.



 PATTY Z. KOUYOUMDJIAN
 EXECUTIVE OFFICER

Attachment A: Lahontan Water Board SEP Program

LAHONTAN WATER BOARD SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP) PROGRAM

INTRODUCTION

The State Water Resources Control Board (State Water Board) adopted a policy addressing Supplemental Environmental Projects (SEPs) on February 3, 2009 (State Water Board SEP Policy). The State Water Board SEP Policy identifies criteria to ensure that selected projects have environmental value, further the enforcement goals of the State Water Board and its regions, and are subject to appropriate input and oversight by the regional water boards.

At its June 2013 meeting, the Lahontan Regional Water Quality Control Board (Lahontan Water Board) established a subcommittee to work with staff and the State Water Board's Office of Enforcement to develop a region-specific SEP program. The region-specific SEP program is intended to provide guidance to Lahontan Water Board staff and dischargers in developing SEPs that further the Lahontan Water Board's priorities consistent with the State Water Board SEP Policy.

GENERAL GUIDANCE

The Lahontan Water Board supports including SEPs as a part of administrative civil liability settlements. SEPs provide a strategic mechanism to make a portion of penalty monies available for the kinds of projects identified as priorities by the Lahontan Water Board. Such projects can help mitigate environmental degradation caused by water quality violations near the area where degradation occurred.

It is recognized that the discharger must propose, or at least agree to, a SEP as part of resolving an administrative liability action. Any proposed SEP must conform to the criteria established by the State Water Board SEP Policy. While a proposed SEP must go above and beyond what is otherwise legally required for a discharger to comply with applicable laws and regulations, a SEP may be considered for a project that is identified on the Lahontan Water Board's Triennial Review List or on any other list of priority projects the Lahontan Water Board has established.

The State Water Board SEP Policy also states there must be a nexus between the violation and the SEP. Nexus means there must be a relationship between the violation and the SEP, either in the nature of the violation (i.e., type of waste discharge) or in the geography of the violation. When evaluating the geographic nexus, the Lahontan Water Board will consider projects within the entire Lahontan, not just within the watershed where the violation(s) occurred. The Lahontan Water Board prefers SEP projects be located close to where the violation(s) occurred, but recognizes this is not always possible.

SEP ACCOUNTS

The Lahontan Water Board supports the establishment of partnerships with independent third parties (partner organizations) to manage SEP accounts and to implement SEPs consistent with the Lahontan Water Board's expressed priorities. The partner organizations will maintain a list of potential projects that are eligible to be considered for SEPs within their respective watershed areas.

In watersheds where the Lahontan Water Board has entered into a Memorandum of Understanding with partner organizations (see Attachment 1) that have agreed to create a SEP account, dischargers may choose to direct up to 50 percent of a liability to the appropriate SEP account to fund projects with a distinct environmental benefit. In areas where there are no appropriate groups with whom to partner, or where a potential group exists but does not have sufficient institutional capacity, Lahontan Water Board staff will conduct outreach and work with potential partners to bring them to a point where a partnership would be viable. Alternatively, when a penalty is assessed for violations in a geographic area with no developed partnership agreement, a programmatic nexus may be used to direct a portion of the penalty to an existing partner organization.

The partner organizations will act as a bursar of the SEP account funds, directing the funds toward projects according to an agreement established with the Lahontan Water Board. Penalty portions that are negotiated to be directed into a SEP account may be used to fund a complete project or series of projects, or they may be used to partially fund a larger project. The partner organization may also use SEP accounts to leverage other sources of funding.

The use of SEP accounts has many advantages. It directs monies toward projects that are already vetted through local stakeholder processes and thereby allows for broad-based local participation and input regarding the use of penalties to directly enhance water quality in the Lahontan Region. It increases transparency in how SEP monies are used. It helps link the Lahontan Water Board with planning by local stakeholder groups, helping to harmonize the development of plans and criteria between and among stakeholders. It strengthens relationships between the Lahontan Water Board and local stakeholders.

Further, engaging our local watershed partners to manage SEP accounts provides a high level of certainty that a watershed project selected by a discharger for a SEP will be completed as required. Partner organizations will be identified and selected based upon many factors, including their longevity, their financial stability and accountability, and their successful track record of funding and implementing watershed projects. Furthermore, potential projects will be identified and vetted based upon specific minimum criteria to be eligible for consideration as a SEP. These factors reduce the risk to dischargers considering whether to direct liability amounts to fund a SEP implemented by a third party. Some dischargers may still elect to perform SEP projects themselves, particularly public entities. However, a pre-approved list of SEPs performed by pre-vetted third parties should help non-public entities select SEPs that will be approved by the Lahontan Water Board.

Using SEP accounts is likely to reduce staff oversight costs since Lahontan Water Board staff will not need to help develop a SEP or oversee its implementation. The partner organization will be responsible for most of the administration of the SEP because it will produce and submit an annual report regarding the disposition of SEP account funds and the status of the liability-funded projects. The list of potential projects will be maintained by the partner organization instead of Lahontan Water Board staff. The project list will be updated, modified and re-prioritized as the partner organization works with its stakeholders, and the Lahontan Water Board will have the opportunity to express its priorities to the partner organization during that annual update process.

PARTNER ORGANIZATION QUALIFICATION CRITERIA AND IMPLEMENTATION

The Lahontan Water Board will develop partnerships with watershed-based groups that use stakeholder processes to identify and prioritize projects that may be eligible for funding from SEP accounts. Examples of such groups are the Truckee River Watershed Council and the Inyo Mono Integrated Regional Water Management (IRWM) Group. The Lahontan Water Board will identify potential partners throughout the Lahontan Region and develop separate partnership agreements with each one. Once a partnership agreement is developed and finalized through a Memorandum of Understanding (see Attachment 1), dischargers will be able to direct portions of liability amounts to the partner organization.

Eligible organizations include local public agencies, regional public agencies, state agencies, nonprofit organizations (501[c][3]), federally-recognized Native American Tribes¹, public colleges, and federal agencies. Eligible organizations shall demonstrate experience in project management, multi-agency collaboration, stakeholder involvement and collaboration, regional approaches to water management, water management involvement in land use decisions, and implementation of project monitoring to evaluate results of current practices. Ineligible organizations include for-profit organizations, private organizations, and 501(c)(4) organizations.

Organizations interested in developing SEP account partnerships with the Lahontan Water Board shall submit the following information.

- A mission statement for the organization's goal to address watershed-based issues.
- A description of the organization's governance structure.
- A description of how the organization's governance structure addresses and ensures the following:
 - Public outreach and involvement processes
 - Effective decision making

¹ Federally-recognized tribes must waive their sovereign immunity in order to be eligible to manage SEP accounts.

- Balanced access and opportunity for participation in selecting potential SEP projects for consideration
 - Effective communication – both internal and external to the watershed(s) area(s)
 - Long-term successful implementation of watershed projects
 - Coordination with neighboring watershed efforts and state and federal agencies
 - The collaborative process(es) used to select and prioritize potential watershed projects
 - How interim changes and formal changes to watershed project lists will be performed
 - Updating or amending watershed project lists
- A description of the organization’s process to incorporate local stakeholder outreach and input in selecting and prioritizing potential watershed projects. Local stakeholders shall include the following, as applicable to the watershed(s):
 - Wholesale and retail water purveyors
 - Wastewater agencies
 - Flood control agencies
 - Municipal and county governments and special districts
 - Electrical corporations
 - Native American Tribes
 - Self-supplied water users
 - Environmental stewardship organizations
 - Community organizations
 - Industry organizations
 - State, federal, and regional agencies or universities
 - Any other interested group appropriate to the region, including private citizens.
- A description of the organization’s experience for completing water quality projects.
 - A description of the organization’s accounting practices, including a description of how its annual financial statements are prepared and audited.

The Lahontan Water Board will enter into formal agreements (Memorandums of Understanding) with organizations that satisfactorily demonstrate proficiency with the above-listed criteria. A template agreement (Attachment 1) has been developed, which can be tailored to meet specific regional watershed issues. The selected partnership organization will be responsible for further refining their individual watershed project lists in order to develop a SEP-specific project list.

The agreement between the Lahontan Water Board and each partner organization will specify requirements (see SEP Qualification Criteria section, below) for using the SEP monies deposited in individual SEP accounts. Generally, these requirements will be similar throughout the region, but some variation will be allowed to meet the specific needs of a partner organization’s geographical area. The requirements will include

annual reporting on projects in progress and completed with SEP monies deposited to the SEP accounts. The requirements will specify that partner organizations must provide a proposed project list to be funded with SEP monies during the upcoming biennium, along with a proposed budget for each project. The agreement will also include obligations on the partner organization to comply with certain provisions in Section H of the State Water Board SEP Policy.

The agreement between the Lahontan Water Board and each partner organization will require the partner organization to develop an individual contract with any discharger who elects to direct a portion of its liability to fund implementation of a SEP. The contract between the partner organization and the discharger shall include specific language (Attachment 2) in addition to any other terms negotiated between the partner organization and the discharger.

SEP QUALIFICATION CRITERIA

To be considered for a SEP, a proposed project must satisfy all conditions outlined in the State Water Board SEP Policy, and must directly benefit or study groundwater or surface water quality or quantity, and the beneficial uses of waters of the state. Specifically, the Lahontan Water Board generally prefers on-the-ground projects that have already completed CEQA review and that provide a direct benefit to water quality. Less weight may be given to technical studies, especially when a watershed plan already exists for a geographic area being considered for a SEP. However, if no watershed plan exists for a watershed, then studies that lead to the development of a watershed plan or IRWM Plan may have higher priority than on-the-ground projects in that watershed. For example, using funds to develop salt and nutrient management plans where none exists may have a higher priority than some on-the-ground projects.

The Lahontan Water Board encourages partner organizations to identify portions of potential SEP projects that can be funded in either Planning/Assessment phase or in an Implementation phase. Eligible implementation projects may include project-level planning, design, construction, construction management, implementation, and monitoring to implement full scale on-the-ground mitigation. Eligible planning/assessment projects may complete an assessment, study, or design identified as a high priority in a TMDL; may prepare studies, strategies, management plans, tools for management plan development, and similar items; fill recognized data gaps; consolidate previously-completed planning work in a watershed; or provide other planning efforts as identified through the partner organization's stakeholder process.

The following additional criteria will be used by partner organizations to select and prioritize potential projects for consideration as SEPs:

- Projects that address public health and safety issues or concerns.
- Projects that address environmental health and safety issues or concerns.
- Projects that offer multi-regional or statewide benefit.
- Projects in process that need additional funds to bring the effort to completion.
- Projects that address environmental justice concerns.

- Projects that improve efficiencies (databases, automation, system enhancements, etc.).
- Projects that support a Lahontan Water Board, CalEPA, Legislative, or Governor's Office priority (see State Water Board's Strategic Plan Update and the CalEPA Strategic Vision Goals).
- Leveraged projects where matching funds are being provided.
- Projects that support the Lahontan Water Board's triennial review process.

PUBLIC REPORTING

The Lahontan Water Board will post on its website by March 1 of each year a list of all SEPs completed the prior year and information on the status of SEPs in process the prior year. The Lahontan Water Board will also post each partner organization's list of projects and subsequent updates that may be considered as SEPs. Approved agreements with each partner organization will also be posted on the Lahontan Water Board's website.

Attachments: 1. Template Partner Organization/Lahontan Water Board Agreement
2. Template Language for Partner Organization/Discharger Agreements

MEMORANDUM OF UNDERSTANDING

**LAHONTAN WATER BOARD
SUPPLEMENTAL ENVIRONMENTAL PROJECT
ACCOUNT PROGRAM WITH
[NAME OF PARTNER ORGANIZATION]**

This document shall serve as a Memorandum of Understanding by and between the California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) and the PARTNER ORGANIZATION for the Supplemental Environmental Project (SEP) Account program authorized by the Lahontan Water Board's SEP Program, approved by Resolution No. R6T-2014-0014 (Lahontan Water Board SEP Program). The terms and conditions of this Memorandum of Understanding (MOU) govern PARTNER ORGANIZATION'S obligations to identify projects that may qualify as SEPs, to implement SEPs consistent with the Lahontan Water Board SEP Program, and to use the funds transferred to it by a discharger in accordance with the Lahontan Water Board's authorizing Administrative Civil Liability Order. This MOU is effective upon its execution by PARTNER ORGANIZATION and the Executive Officer of the Lahontan Water Board.

1. PARTNER ORGANIZATION shall incorporate the SEP Qualification Criteria identified in the Lahontan Water Board SEP Program to identify potential projects that may qualify as a SEP. This shall be incorporated within the PARTNER ORGANIZATION'S stakeholder process used for identifying potential projects.
2. PARTNER ORGANIZATION shall submit to the Lahontan Water Board Executive Officer on a biannual basis a list of potential projects that have been identified pursuant to Paragraph 1, above. The first such list shall be submitted by [DATE] and every two years thereafter.
3. When a discharger is under Order of the Water Board to pay a liability for violations, PARTNER ORGANIZATION shall enter into a direct contract with any Discharger who elects to direct a portion of its liability to fund implementation of a SEP identified on the PARTNER ORGANIZATION's list of potential projects noted in Paragraph 2, above. The contract between the PARTNER ORGANIZATION and the discharger shall include specific language noted within Attachment 2 to the Lahontan Water Board SEP Program.
4. PARTNER ORGANIZATION shall provide quarterly reports of progress on each SEP to the Designated Lahontan Water Board Representative commencing on the first day of the fiscal quarter after a contract with a discharger becomes effective and continuing through submittal of the final reports described below. If no activity occurred during a particular quarter, a quarterly report so stating shall be submitted.

5. On or before the applicable SEP Completion Date, PARTNER ORGANIZATION shall submit a certified statement of completion of the SEPs (“Certification of Completion”). The Certification of Completion shall be submitted under penalty of perjury, to the Designated Lahontan Water Board Representative by a responsible corporate official representing PARTNER ORGANIZATION. The Certification of Completion shall include following:
 - a. Certification that the SEP has been completed in accordance with the terms of this MOU, the Lahontan Water Board’s authorizing Order and the Lahontan Water Board’s SEP Program. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Lahontan Water Board to evaluate the completion of the SEP and the costs incurred by PARTNER ORGANIZATION.
 - b. Certification documenting the expenditures by PARTNER ORGANIZATION during the completion period for the SEP. PARTNER ORGANIZATION’S expenditures may include external payments to outside vendors or contractors performing the SEP. In making such certification, the official may rely upon normal company project tracking systems that capture employee time expenditures and external payments to outside vendors such as environmental and information technology contractors or consultants. The certification need not address any costs incurred by the Lahontan Water Board for oversight. PARTNER ORGANIZATION shall provide any additional information requested by the Lahontan Water Board Representative which is reasonably necessary to verify SEP expenditures.
 - c. Certification, under penalty of perjury, that PARTNER ORGANIZATION obtained all necessary permits and followed all applicable laws and regulations in the implementation of the SEP, including but not limited to the federal Clean Water Act, the Porter-Cologne Act, and the terms of any permits issued for the SEP.
6. To ensure compliance with the California Environmental Quality Act where necessary, PARTNER ORGANIZATION shall provide the Lahontan Water Board with the following documents from the lead agency prior to commencing SEP construction:
 - a. Categorical or statutory exemptions relied upon by the Lead Agency;
 - b. Negative Declaration if there are no potentially “significant” impacts;
 - c. Mitigated Negative Declaration if there are potentially “significant” impacts but revisions to the project have been made or may be made to avoid or mitigate those potentially significant impacts; or
 - d. Environmental Impact Report (EIR).

7. In addition to the certification, upon completion of the SEP and at the written request of the Lahontan Water Board Executive Officer, PARTNER ORGANIZATION AND DISCHARGER, at THEIR sole cost, shall submit a report prepared by an independent third party(ies) acceptable to the Lahontan Water Board Executive Officer providing such party's(ies)' professional opinion that PARTNER ORGANIZATION has expended money in the amounts claimed. The audit report shall be provided to the Designated Lahontan Water Board Representative within three (3) months of notice from the Lahontan Water Board Executive Officer to PARTNER ORGANIZATION AND DISCHARGER of the need for an independent third party financial audit. The audit need not address any costs incurred by the Lahontan Water Board for oversight.
8. Upon PARTNER ORGANIZATION'S satisfaction of its SEP obligations under this MOU and completion of each SEP(s) and any audit requested by the Lahontan Water Board, the Designated Lahontan Water Board Representative shall send PARTNER ORGANIZATION AND DISCHARGER a letter recognizing satisfactory completion of THEIR obligations under the terms of each applicable Order authorizing the completion of a SEP. This letter shall terminate any further MOU and other applicable Order obligations of PARTNER ORGANIZATION AND DISCHARGER.
9. In the event that PARTNER ORGANIZATION and each applicable discharger are not able to demonstrate to the reasonable satisfaction of the Lahontan Water Board Executive Officer that the entire amount of funds allocated under an Order authorizing a SEP has been spent to complete the components of the SEP for which a discharger is financially responsible, the discharger shall pay to the State Water Board Cleanup and Abatement Account or Waste Discharge Permit Fund, as appropriate, the difference between the funds allocated under the Order authorizing a SEP and the amount the PARTNER ORGANIZATION and the discharger can demonstrate was actually spent on the SEP. Alternatively, the Lahontan Water Board may approve the use of the surplus funds for a different SEP consistent with the Lahontan Water Board's SEP Program and with the State Water Resources Control Board's SEP Policy.

IT IS SO AGREED.

California Regional Water Quality Control Board – Lahontan Region

By: _____
Patty Z. Kouyoumdjian
Executive Officer

Date: _____

PARTNER ORGANIZATION

By: _____
[NAME OF PERSON]
[TITLE OF PERSON SIGNING]

Date: _____

ATTACHMENT 2

TEMPLATE LANGUAGE FOR PARTNER ORGANIZATION/DISCHARGER AGREEMENTS

This document shall serve as a Memorandum of Understanding by and between PARTNER ORGANIZATION (XXX) and DISCHARGER (XXX) for the Supplemental Environmental Project (SEP) authorized by California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) Order No. R6-xxxx-xxx (the Order) and described in detail therein (the Project).

1. Pursuant to the terms of the Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order entered into between the Lahontan Water Board Prosecution Team and DISCHARGER, DISCHARGER agrees to donate, and PARTNER ORGANIZATION commits to receive funding in the amount of \$xxx,xxx (Funding) to be utilized for implementation of the Project.
2. As a condition to the donation, PARTNER ORGANIZATION agrees as follows:
 - a. To serve as the Implementing Party for the Project, as detailed in the Order;
 - b. To cooperate with DISCHARGER to meet the SEP requirements set forth in the Order, the terms of which are attached hereto as Exhibit X;
 - c. To return to DISCHARGER any unexpended portion of the Funding to the extent not spent on the Project.
3. PARTNER ORGANIZATION agrees that should it publicize the Project it shall state in a prominent manner that the Project is being funded as part of a settlement of an enforcement action by the Lahontan Water Board against DISCHARGER.
4. This MOU and the parties' relations shall be construed and governed by the laws of the State of California without regard to conflict-of-laws rules or principles.
5. Nothing contained in this MOU shall at any time constitute, be deemed to constitute or be construed to create a relationship among DISCHARGER and PARTNER ORGANIZATION of partnership, joint venture, agency, or any other relationship creating fiduciary, quasi-fiduciary or similar duties and obligation, or that would otherwise subject DISCHARGER and PARTNER ORGANIZATION to joint and several or vicarious liability in favor of any third party.
6. PARTNER ORGANIZATION acknowledges that the Funding is the full extent of DISCHARGER's obligation hereunder and that PARTNER ORGANIZATION is responsible for securing sufficient other resources as may be needed to complete the Project in accordance with the Order in the event the Project cannot be completed with the amount of Funding being provided by DISCHARGER.

7. This MOU may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to constitute one and the same instrument.

(SIGNATURE BLOCKS FOR PARTNER ORGANIZATION AND DISCHARGER)