

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

RESOLUTION NO. R6T-2016-0061

**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.

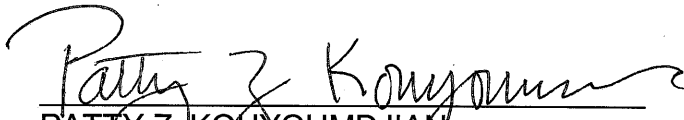
6. Water Board staff accepted the application on June 3, 2016 and began developing a Memorandum of Understanding (MOU) with the Conservancy.
7. The Conservancy operates in the West Mojave Desert area spanning the Antelope Valley, Fremont Valley, Mojave River, and some adjacent (e.g., Cuddeback Hydrologic 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

Website: www.transitionhabitat.org
Phone: 760-868-1400
E-mail: Jill@transitionhabitat.org



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.

Website: www.transitionhabitat.org

Phone: 760-868-1400

E-mail: Jill@transitionhabitat.org



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.**



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Lahontan Regional Water Quality Control Board

November 30, 2016

Jill Bays
Transition Habitat Conservancy
PO Box 720026
Pinon Hills, CA 92372
jill@baystranslations.com
Jill@transitionhabitat.org

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

Enclosed is adopted Resolution No. R6T-2016-0061, which was adopted at the Regional Water Quality Control Board meeting held in Apple Valley, California on September 14-15, 2016.

The original is being mailed to you. Please sign the original and return a copy to my attention at my address below. If you have any questions, please contact Eric Taxer at (530) 542-5434.

Sincerely,

Kathy Otermat
Executive Assistant

cc: Mailing List

Enclosures: R6T-2016-0061 Resolution - Transition Habitat Conservancy (THC)
THC Resolution - Attachment A - Application Cover Letter
THC, Resolution- Attachment B - Proposed MOU
THC, Resolution- Attachment C - Project Submittal Forms FINAL

AMY L. HORNE, PH.D, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

2501 Lake Tahoe Blvd., So. Lake Tahoe, CA 96150 | 15095 Amargosa Road, Bldg 2, Ste 210, Victorville CA 92394
e-mail Lahontan@waterboards.ca.gov | website www.waterboards.ca.gov/lahontan

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

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, 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.

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 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.

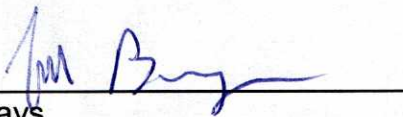
IT IS SO AGREED.

California Regional Water Quality Control Board – Lahontan Region

By: 
Patty Z. Kouyoumdjian
Executive Officer

Date: October 18, 2016

Transition Habitat Conservancy

By: 
Jill Bays
Director

Date: December 6, 2016

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 checked="" type="checkbox"/> Restoration | <input checked="" type="checkbox"/> Stormwater/Flood Control | <input checked="" type="checkbox"/> Water Supply/Wastewater | <input checked="" 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.

(Links to the priorities are listed on following page)

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>

**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 | |
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(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

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| 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 |
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(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: | <p>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.</p> | | | |
| Project Location – City and County: | <p>Lockhart / Hinkley, San Bernardino County The spring site is located for this parcel is: Lat 35.115483°, Lon -117.374042° WGS 84</p> | | | |
| Affected Watershed and/or Groundwater Basin: | <p>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.</p> | | | |
| Estimated Project Budget: | <p>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>.</p> | | | |
| Expected Benefits/Improvements to Water Quality and/or Beneficial Uses: | <p>Better understand recharge source(s) and also constrain the groundwater recharge rate and subsurface flow from the recharge areas to McDonald Well.</p> | | | |
| Estimated Project Duration: (In Months) | 9 months | | | |
| Project Readiness: | <p>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</p> | | | |

III. Optional Project Information

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

| | |
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| 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 | |
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| 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.)

| | |
|--|--|
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(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.)

| | |
|--|--|
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(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 | |
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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. | | | |

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