

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-6

Urgent

Routine

AGENDA DATE May 4, 2010

CEO Concurs with Recommendation YES NO

(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of a Memorandum of Understanding (MOU) with the Cities of Modesto, Ceres, and Turlock and the Del Puerto Water District for the North Valley Regional Recycled Water Project Collaborative Partnership

STAFF RECOMMENDATIONS:

1. Approve the Memorandum of Understanding (MOU) with the Cities of Modesto, Ceres, and Turlock and the Del Puerto Water District for the North Valley Regional Recycled Water Project Collaborative Partnership
2. Authorize the Chief Executive Officer, or his designee, to sign the Memorandum of Understanding with the Cities of Modesto, Ceres, and Turlock and the Del Puerto Water District for the North Valley Regional Recycled Water Project Collaborative Partnership

FISCAL IMPACT:

There is no fiscal impact associated with this item. Although the North Valley Regional Recycled Water Project Memorandum of Understanding, paragraph 13, stipulates the sharing of costs and resources among the Member Agencies, the City of Modesto, as the lead agency, has provided written confirmation that because Stanislaus County is not a purveyor of water, we would not participate financially in the project.

BOARD ACTION AS FOLLOWS:

No. 2010-267

On motion of Supervisor O'Brien, Seconded by Supervisor DeMartini and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, DeMartini, and Vice Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: Grover

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

DW-17-12
C-2-C-1
C-5-E-11

File No. C-6-J-1

Approval of a Memorandum of Understanding (MOU) with the Cities of Modesto, Ceres, and Turlock and the Del Puerto Water District for the North Valley Regional Recycled Water Project Collaborative Partners

DISCUSSION:

The water shortage in California is now at a crisis level due to the three year drought. Combined with pumping reductions imposed for the San Joaquin River Delta, this water crisis is especially severe in the San Joaquin Valley, particularly south of the San Joaquin River Delta. This water crisis has had a significant impact on local farming, economic development and the water environment. Federal Central Valley project water contractors have seen their agricultural water deliveries reduced to a mere ten percent (10%) of their contract allotments. Expanded use of recycled water, particularly for the West Side, represents a potential solution for part of the California water crisis.

On November 13, 2007 the Stanislaus County Chief Executive Officer provided direction to the Agricultural Advisory Board indicating that the County would be "well served by an analysis of the potential use of tertiary wastewater for agricultural uses." The Chief Executive Officer noted the relevance of evaluating the viability of using other water sources for landscape maintenance, crop irrigation, and other non-drinking uses as the demand for potable water continues to increase throughout the valley. After reviewing available research and meeting with the Monterey Regional Water Pollution Control Agency, operator of the world's largest water recycling facility designed for raw food crop irrigation, the Agricultural Advisory Board presented its report on the use of tertiary wastewater for agricultural purposes to the Board of Supervisors on March 31, 2009. The Board of Supervisors accepted the Agricultural Advisory Board's findings "that the use of tertiary treated water for crops grown in Stanislaus County has possible significance, provided that sound science is factored in when evaluating its feasibility. Also, significant resources should be provided for outreach into the community regarding the safety of tertiary treated wastewater as irrigation water so that the agricultural community is protected."

On January 12, 2010, the Modesto City Council, by Resolution No. 2010-016, approved moving forward with a Regional Recycled Water Delivery System Feasibility Study in partnership with the Del Puerto Water District (DPWD). The City of Modesto's recycled water facilities are located across the San Joaquin River from the West Side areas of Stanislaus County that are most significantly impacted by the water shortages. This close proximity provides the opportunity for the City's recycled water to be moved across the river to serve agricultural, municipal and industrial uses. The construction of a transmission pipeline and pumping facilities will create the opportunity to replace the use of potable water of approximately 16,690 acre-feet per year by 2015 and 30,804 acre-feet per year by 2030. Subsequently, the proposal has expanded to include the cities of Turlock and Ceres as partners in providing additional recycled water. The North Valley Regional Recycled Water Project has gathered the legislative interest and support necessary to be considered for federal funding; however, the

Approval of a Memorandum of Understanding (MOU) with the Cities of Modesto, Ceres, and Turlock and the Del Puerto Water District for the North Valley Regional Recycled Water Project Collaborative Partners

project must be authorized to qualify for the federal appropriation process. There are several requirements that are essential for obtaining federal funding for construction. Two key requirements are: 1) the feasibility study must be completed to authorize the project; and 2) the project partners need to execute a Memorandum of Understanding (MOU) to designate a lead agency for receiving the funding and eventually constructing the project. It should also be noted that the Bureau of Reclamation (Bureau) funding criteria for recycled water includes a section that rates recycled water projects based on the project proponent's formation of a "collaborative partnership" with other entities and the project's implementation of a regional planning effort. Stanislaus County's participation in the collaboration is to demonstrate the regional support of the project by all local municipalities. However, as Stanislaus County is not a purveyor of water, no financial support would be required. The proposed MOU will help demonstrate that the North Valley Regional Recycled Water Project meets these ranking criteria for "collaborative partnerships".

The North Valley Regional Recycled Water Project MOU has been prepared and the proposed participants consist of the Cities of Modesto, Ceres, and Turlock, as well as Stanislaus County, and Del Puerto Water District. The MOU establishes a collaborative partnership between the participating agencies; provides for coordinating interagency efforts through a committee structure with representation from each participating agency; and designates an administrative agency (in this case the City of Modesto) to enter into contracts, receive funds, and perform administrative functions on behalf of the participating agencies.

All of the parties have reviewed, commented, and are seeking approval from their Councils and Boards on the proposed MOU for the project partnership.

POLICY ISSUE:

The Board of Supervisors should determine whether the approval of this Memorandum of Understanding (MOU) with the Cities of Modesto, Ceres, and Turlock and the Del Puerto Water District for the North Valley Regional Recycled Water Project Collaborative Partners is consistent with its current priority of a well planned infrastructure,

STAFFING IMPACT:

There are no additional staffing impacts associated with this item. Designees from the City of Modesto will provide support and technical assistance as needed.

CONTACT PERSON

Stan Risen, Assistant Executive Officer 525-7635

NORTH VALLEY REGIONAL RECYCLED WATER PROJECT

COLLABORATIVE PARTNERSHIP

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") establishes the North Valley Regional Recycled Water Project Collaborative Partnership (Partnership) for the purposes described herein.

This MOU is made and entered into by and between the parties that are signatories to this MOU.

Recitals

WHEREAS, each of the parties to this MOU is a local government entity functioning within the North Valley Region, as depicted in Exhibit A attached hereto and incorporated by reference, and

WHEREAS, the parties desire to enter into a MOU to explore the feasibility of coordinating interagency efforts to expand the beneficial use of recycled water in the North Valley Region thereby promoting the conservation of limited surface water and groundwater resources, and

WHEREAS, the parties do not intend to create a separate public agency pursuant to Government Code §6500 et seq. through this MOU and no provision of this MOU should be so construed, and

WHEREAS, the parties hereto may later explore the feasibility of changing their organizational structure by establishing a Joint Powers Authority in a separate agreement that would advance the mission and goals of the Partnership, or if such changes are necessary in order to receive federal or state funds, and

WHEREAS, the parties hereto recognize the value of using common resources effectively and efficiently, and

WHEREAS, the parties hereto desire to be proactive with respect to water and wastewater regulatory issues affecting the North Valley Region that transcend the traditional political boundaries of the parties, and

WHEREAS, the parties hereto desire to inform communities and the public in the North Valley Region about the importance of water conservation and the benefits of water reuse, and

WHEREAS, the parties hereto wish to coordinate their consideration and review of local, state, and federal policies and programs related to the expansion of existing recycled water programs and the development of new recycled water programs in the North Valley Region, and

WHEREAS, the parties hereto find that promoting the stewardship of water resources in the North Valley Region is in the public interest and for the common benefit of all within the North Valley Region, and

WHEREAS, the parties recognize that there are current and future regulatory requirements which apply to water resources in the North Valley Region affecting one or more of said parties, and that these multiple regulatory requirements may be better addressed on a regional basis, and in a collaborative manner, and the parties wish to investigate more effective ways to share information and coordinate efforts to comply with said regulatory requirements, and

WHEREAS, the parties intend that participation in this MOU be entirely voluntary, and that any party may elect to withdraw from the MOU at any time and for any reason.

NOW, THEREFORE, the parties hereto do hereby enter into this Memorandum of Understanding, as follows:

Memorandum of Understanding

1. **Definitions.** As used in this MOU, the following words and phrases shall have the meanings set forth below unless the context clearly indicates otherwise.

(a) "MOU" shall mean this Memorandum of Understanding.

(b) "Partnership" shall mean the unincorporated, cooperative group of public agencies organized through this MOU and otherwise referred to as the North Valley Regional Recycled Water Project Partnership.

(c) "Coordination Committee" shall mean the administrative body established pursuant to this MOU.

(d) "Member Agency" or "Member Agencies" shall mean the local and/or regional public agencies regulated under the Clean Water Act, 33 U.S.C. § 1251 et seq., the federal Safe Drinking Water Act, 42 U.S.C § 300f et seq., and/or the state Safe Drinking Water Act, Health & Safety Code § 116275 et seq., or have responsibility for providing water for the irrigation of agricultural lands, that operate within or have jurisdiction over any area within the North Valley Region, and that are signatories to this MOU.

(e) "North Valley Region" shall mean the area depicted on the map attached hereto and incorporated herein as Exhibit A

(f) "Administrative Agency" shall mean that Member Agency authorized pursuant to Section 11 to enter into contracts and perform other administrative functions on behalf of the Partnership.

2. **Purpose.** This MOU is being entered into in order to establish the North Valley Regional Recycled Water Project Partnership and to carry out the mission, goals, and objectives

stated herein related to the expansion of beneficial uses of recycled water in the North Valley Region. While this MOU will coordinate the efforts of the Member Agencies to further the goals of the Partnership, there is no intent to form an independent Joint Powers Authority at this time as set forth in Government Code § 6500 et seq., nor is it the intent to form a formal partnership, but rather the intent is to form an unincorporated cooperative group of public agencies

3. Establishment of the Partnership. There is hereby established the North Valley Regional Recycled Water Project Partnership ("Partnership"). The geographic boundaries of the project Partnership shall be the North Valley Region. (See Exhibit A).

4. Partnership Membership. Any local and/or regional public agency regulated under the Clean Water Act, 33 U.S.C. § 1251 et seq., the federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq., and/or the state Safe Drinking Water Act, Health & Safety Code § 116275 et seq., or have responsibility for providing water for the irrigation of agricultural lands, that operates within or has jurisdiction over any area within the North Valley Region may be a Member Agency of the project Partnership. Each Member Agency must be a signatory to this MOU. A list of the agencies considered to be eligible for project Partnership membership, at the time this MOU was drafted, is attached as Exhibit B and incorporated by reference.

5. Coordination Committee.

(a) The Coordination Committee of the project Partnership shall consist of one representative from each Member Agency. Such representative shall be a Board member, Councilmember, general manager, city manager, or a suitable staff member of the Member Agency. In the event that the primary representative is unavailable for a meeting, he or she may designate an alternate.

(b) If the total number of Member Agencies renders plenary decision-making difficult and administratively impractical, the Coordination Committee may, by

unanimous vote of the representatives of all Member Agencies, create an Executive Coordination Committee of at least five (5) but fewer than seventeen (17) members, which shall have the powers and authority that the Member Agencies deem appropriate.

6. Voting and Authorization Requirements.

(a) Each representative on the Coordination Committee shall have one vote. Except as set forth in subsections (b) and (c) below and as otherwise specified herein, if a quorum is present, the affirmative vote of the majority of members of the Coordination Committee present is required to approve any item. In addition to conducting the regular business of the Partnership, the Coordination Committee may, by majority vote, authorize any contracts or amendment thereto to be entered into by the Administrative Agency on behalf of the Partnership, provided that the total amount of the combined contract and amendment does not exceed \$10,000, and providing that funding for the contract or amendment thereto is included in the currently adopted Partnership budget.

(b) Approval by all Member Agencies shall be required (i) to adopt or modify the budget and (ii) to authorize the Administrative Agency to enter into, modify, or accept work under any contract in excess of \$10,000.

(c) Approval by the governing bodies of all Member Agencies shall be required to modify this MOU.

7. Quorum. Representatives or alternates from a majority of the Member Agencies shall constitute a quorum for purposes of transacting business, except that less than a quorum may vote to adjourn a meeting or to set a date for the next meeting.

8. Terms of Office. Each representative on the Coordination Committee shall serve for as long as he or she is an employee, of his or her Member Agency and is designated by the Member Agency to act as its representative. If at any time a vacancy occurs on the Coordination

Committee, a replacement shall be appointed by the Member Agency to fill the unexpired term of the previous representative within ninety (90) days of the date that such position becomes vacant.

9. **Alternates.** Alternate representatives to the Coordination Committee shall be empowered to cast votes in the absence of the regular representative or in the event of a conflict of interest that prevents the regular representative from voting.

10. **Officers of the Project Partnership.** The Coordination Committee of the project Partnership may elect a Chair, a Vice-Chair, and such other officers as it deems appropriate. The duties of the Chair and Vice-Chair are as follows:

(a) **Chair.** The Chair shall direct the preparation of agendas, call meetings of the Coordination Committee to order, and conduct other activities as deemed appropriate by the Coordination Committee.

(b) **Vice-Chair.** The Vice-Chair shall serve as the Chair in the absence of the regularly-elected Chair. In the event both the Chair and Vice-Chair are absent from a meeting, which would otherwise constitute a quorum, and a temporary Chair was not designated by the Chair at the last regular meeting, any Board member may call the meeting to order, and a temporary chair may be elected by majority vote to serve until the Chair or Vice-Chair is present.

11. **Administrative Agency.** The Member Agencies hereby designate the City of Modesto to act as the Administrative Agency for the purpose of carrying out the provisions of this MOU. The authority delegated herein to the Administrative Agency shall be subject to the restrictions upon the manner of exercising power applicable to the Administrative Agency, including but not limited to the purchasing ordinances and purchasing procedures of the Administrative Agency. The Administrative Agency, for the benefit of the Partnership, shall:

(a) Award, execute in its own name, and administer such contracts on

behalf of the project Partnership, as may be authorized by the Coordination Committee or by the Member Agencies, as set forth in Section 6.

(b) Through its controller and treasurer, act as the financial officer, or functional equivalent, and be the depositor and have custody of all monies of the Partnership from whatever source. The Administrative Agency shall draw warrants to pay demands for expenditures authorized by the Coordination Committee or by its authorized representative pursuant to any delegation of Partnership authorized by the Coordination Committee.

(c) Provide budget analyses, warrant lists, and other financial documents as required by the Coordination Committee. The Administrative Agency's financial activities with regard to the Partnership shall be subject to an outside audit at any time at the request of the Coordination Committee.

(d) Determine charges to be made against the Partnership for the Administrative Agency's services. Payment of these charges shall be subject to the approval of the Coordination Committee.

(e) Prepare the reports identified in Section 17 if the Coordination Committee has not designated another party or person to complete that task. The Administrative Agency may resign its position as Administrative Agency upon 120 days written notice to all parties to the MOU, and shall, before the effective date of its resignation, transfer all funds held on behalf of the Partnership to any designated successor Administrative Agency. The Coordination Committee may designate a successor Administrative Agency by majority vote. Should no other party be designated to act as Administrative Agency by the effective date of the resignation, the MOU shall terminate and the Administrative Agency shall distribute all property held on behalf of the Partnership pursuant to Section 20.

(f) Provide legal services for litigation or other legal actions on behalf of the Partnership that may arise against the North Valley Regional Recycled Water Project. Reimbursement of legal costs shall be made to the Administrative Agency pursuant to Section 13.

12. Staff and Consultants. Subject to the approval and procedural provisions of Sections 6 and 11, and subject to the financial limitations provided in the adopted Partnership budget, the Administrative Agency may employ or contract for any staff or consultants as may be reasonably necessary to carry out the purposes of this MOU. Such persons may include legal counsel, administrative executives, and other types of specialists.

13. Sharing of Costs and Resources. The Coordination Committee may also assess each Member Agency for costs associated with paying the Administrative Agency, staff, or consultants, and the funding of approved projects, as authorized by the Coordination Committee or the Member Agencies, as set forth in Section 6. Any assessment shall only be valid after the Member Agencies have approved the budget. Assessments shall not exceed those expenses authorized in the budget.

14. Termination of Membership.

(a) Causes. A Member Agency's participation in this MOU shall terminate on the occurrence of any of the following:

(1) The voluntary resignation of a Member Agency with notice as prescribed by subsection (b) below;

(2) The nonpayment of assessments, subject to the limitations set forth in subsection (c) below; or

(3) The occurrence of an event which renders an entity no longer eligible for membership under Section 4 of this MOU, as determined by the Coordination Committee.

(b) Resignation by Giving Notice. The membership of any Member Agency of the Partnership shall terminate after the delivery of such Member Agency's written request for termination to the Chair of the Coordination Committee. Such notice shall be given at least thirty (30) days before the effective date of such resignation. There shall be no refund of any assessments upon such resignation.

(c) Nonpayment of Allocated Costs. The membership of any Member Agency of the Partnership shall be terminated if the Member Agency fails to pay its allocated costs within one hundred and twenty (120) days after such costs are due. Termination shall be effective upon the majority vote of the Coordination Committee. Member Agencies shall be given thirty (30) days prior written notice of a threatened termination and the reasons thereof. The notice may be delivered in person or by first-class, certified mail, fax, or e-mail to the Member Agency's representative on the Coordination Committee.

(d) Effect of termination. All rights of a Member Agency in the Partnership shall cease on the termination of such Member Agency's membership. Termination shall not relieve the Member Agency from any obligation for charges, costs, or liabilities incurred or arising from acts or omissions before the date of termination. The terminating Member Agency's responsibility for such charges, costs, or liabilities shall be determined in a manner consistent with the allocations set forth in Section 13. Likewise, termination shall not preclude the Member Agency from any benefits that fully accrue before the date of termination.

15. Procedures. The Coordination Committee may adopt bylaws, rules of conduct for meetings, and operating procedures for the Partnership. To facilitate such efforts, the Partnership may adopt the administrative procedures and policies of a Member Agency.

16. Meetings. The Coordination Committee shall provide for meetings, as necessary.

17. Reports to Member Agencies. Each year the Partnership shall submit a written report to the governing body of each of the Member Agencies. This report shall describe the financial activities of the Partnership during the preceding year.

18. Offices. For the purposes of forming the Partnership and for initial operation, the principal office of the Partnership shall be located at the Administrative Agency. The Coordination Committee may change said principal office from one location to another after providing thirty (30) days notice of such a change. The Chair shall notify each Member Agency in writing of the change.

19. Termination. This MOU shall remain in effect until terminated by majority vote of two-thirds of the representatives of all then-current Member Agencies. This MOU shall also be terminated if the Administrative Agency has resigned pursuant to Section 11 and no other Member Agency has been designated to act as the Administrative Agency prior to the effective date of the resignation.

20. Disposition of Property and Surplus Funds. At the termination of this MOU, any and all property, funds, assets, and interests therein held by the Administrative Agency on behalf of the Partnership shall become the property of and be distributed to the Member Agencies. Money collected from Member Agencies and held in reserve by the Administrative Agency for payment of the costs of programs shall be allocated among Member Agencies in proportion to each Member Agency's contributions to such reserves. All other property, funds,

assets, and interests shall be distributed by the Administrative Agency to Member Agencies in proportion to each Member Agency's contributions to the Partnership for allocated costs. However, liabilities of the Partnership in excess of those assets held by the Administrative Agency on behalf of the Partnership at the time of termination shall be assessed against the Member Agencies and said Member Agencies shall be responsible for such liabilities. The allocation of responsibility for the payment of such liabilities shall be determined in a manner consistent with the provisions of Section 13.

21. Minutes. A secretary or clerk may be appointed by the Coordination Committee or the Administrative Agency. If no secretary or clerk is appointed, the Administrative Agency shall cause to be kept minutes of all meetings of the Coordination Committee, and shall cause a copy of the minutes to be forwarded to each Member Agency.

22. Effective Date. This MOU shall become effective and the Partnership shall be established when at least four (4) agencies have authorized its execution.

23. Counterparts. This MOU may be executed in counterpart and each of these executed counterparts shall have the same force and effect as an original instrument and as if all of the parties to the aggregate counterparts had signed the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding as set forth below.

CITY OF MODESTO
Member Agency

By: _____
GREG NYHOFF, City Manager

Dated: _____


ATTEST:

By: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
ROLAND R. STEVENS,
Assistant City Attorney

STANISLAUS COUNTY
Member Agency

By: 
RICHARD W. ROBINSON,
Chief Executive Officer

Dated: 5/4/10

CITY OF TURLOCK
Member Agency

By: _____
ROY WASDEN, City Manager

Dated: _____

CITY OF CERES
Member Agency

By: _____
BRAD KILGER, City Manager

Dated: _____

DEL PUERTO WATER DISTRICT
Member Agency

By: _____
WILLIAM HARRISON, General
Manager

Dated: _____

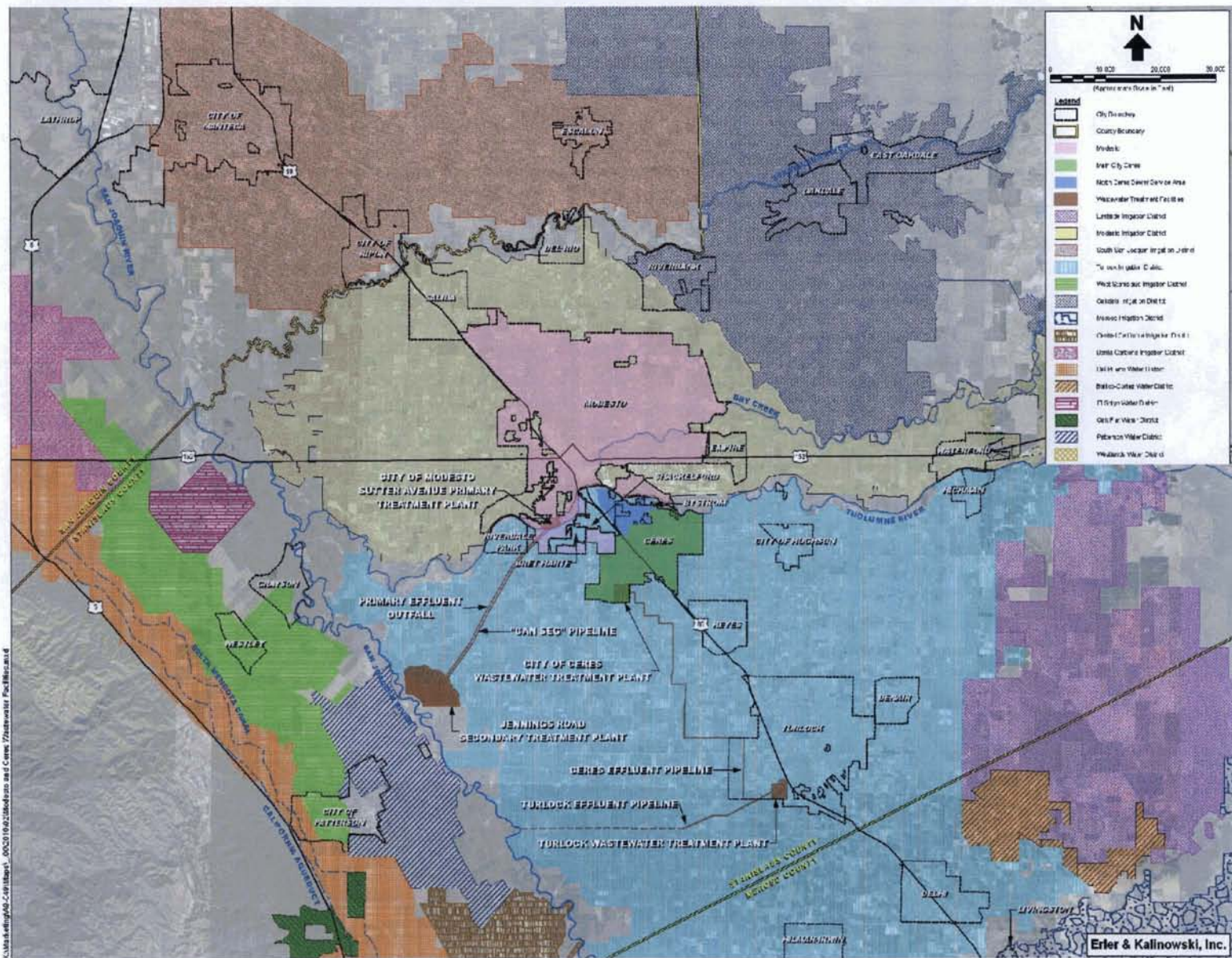


Exhibit A

X:\GIS\erleng\Map_Capillary_00001902\MapInfo.mxd as of Ceres Wastewater Facilities.mxd

Exhibit B

**North Valley Regional Recycled Water
Partnership**

Agencies Eligible for Membership

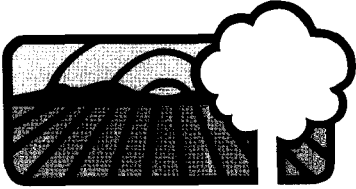
City of Modesto

City of Turlock

City of Ceres

Del Puerto Water District

Stanislaus County



CITY of MODESTO

*Office of the
City Manager*

*1010 Tenth Street
Suite 6100
P.O. Box 642
Modesto, CA 95353
209/577-5223
209/571-5128 Fax*

*Hearing and Speech
Impaired Only
TDD 209/526-9211*

April 30, 2010

Richard W. Robinson
1010 10th Street, Suite 6800
Modesto, CA 95354

Re: North Valley Regional Recycled Water Project Collaborative Partnership

Dear Rick,

This letter is to confirm that as part of the Memorandum of Understanding for the North Valley Regional Recycled Water Project Collaborative Partnership, Stanislaus County will not be asked to participate financially. We anticipate that future phases of the project would require the development of new agreements and the level of financial participation by Stanislaus County can be reevaluated at that time.

I appreciate your support of this important and visionary project.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nyhoff". The signature is written in a cursive, flowing style.

Greg Nyhoff, City Manager
City of Modesto

NORTH VALLEY REGIONAL RECYCLED WATER PROJECT

COLLABORATIVE PARTNERSHIP

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") establishes the North Valley Regional Recycled Water Project Collaborative Partnership (Partnership) for the purposes described herein.

This MOU is made and entered into by and between the parties that are signatories to this MOU.

Recitals

WHEREAS, each of the parties to this MOU is a local government entity functioning within the North Valley Region, as depicted in Exhibit A attached hereto and incorporated by reference, and

WHEREAS, the parties desire to enter into a MOU to explore the feasibility of coordinating interagency efforts to expand the beneficial use of recycled water in the North Valley Region thereby promoting the conservation of limited surface water and groundwater resources, and

WHEREAS, the parties do not intend to create a separate public agency pursuant to Government Code §6500 et seq. through this MOU and no provision of this MOU should be so construed, and

WHEREAS, the parties hereto may later explore the feasibility of changing their organizational structure by establishing a Joint Powers Authority in a separate agreement that would advance the mission and goals of the Partnership, or if such changes are necessary in order to receive federal or state funds, and

WHEREAS, the parties hereto recognize the value of using common resources effectively and efficiently, and

**BOARD OF SUPERVISORS
2010 MAY -5 P 2:52**

WHEREAS, the parties hereto desire to be proactive with respect to water and wastewater regulatory issues affecting the North Valley Region that transcend the traditional political boundaries of the parties, and

WHEREAS, the parties hereto desire to inform communities and the public in the North Valley Region about the importance of water conservation and the benefits of water reuse, and

WHEREAS, the parties hereto wish to coordinate their consideration and review of local, state, and federal policies and programs related to the expansion of existing recycled water programs and the development of new recycled water programs in the North Valley Region, and

WHEREAS, the parties hereto find that promoting the stewardship of water resources in the North Valley Region is in the public interest and for the common benefit of all within the North Valley Region, and

WHEREAS, the parties recognize that there are current and future regulatory requirements which apply to water resources in the North Valley Region affecting one or more of said parties, and that these multiple regulatory requirements may be better addressed on a regional basis, and in a collaborative manner, and the parties wish to investigate more effective ways to share information and coordinate efforts to comply with said regulatory requirements, and

WHEREAS, the parties intend that participation in this MOU be entirely voluntary, and that any party may elect to withdraw from the MOU at any time and for any reason.

NOW, THEREFORE, the parties hereto do hereby enter into this Memorandum of Understanding, as follows:

Memorandum of Understanding

1. **Definitions.** As used in this MOU, the following words and phrases shall have the meanings set forth below unless the context clearly indicates otherwise.

(a) "MOU" shall mean this Memorandum of Understanding.

(b) "Partnership" shall mean the unincorporated, cooperative group of public agencies organized through this MOU and otherwise referred to as the North Valley Regional Recycled Water Project Partnership.

(c) "Coordination Committee" shall mean the administrative body established pursuant to this MOU.

(d) "Member Agency" or "Member Agencies" shall mean the local and/or regional public agencies regulated under the Clean Water Act, 33 U.S.C. § 1251 et seq., the federal Safe Drinking Water Act, 42 U.S.C § 300f et seq., and/or the state Safe Drinking Water Act, Health & Safety Code § 116275 et seq., or have responsibility for providing water for the irrigation of agricultural lands, that operate within or have jurisdiction over any area within the North Valley Region, and that are signatories to this MOU.

(e) "North Valley Region" shall mean the area depicted on the map attached hereto and incorporated herein as Exhibit A

(f) "Administrative Agency" shall mean that Member Agency authorized pursuant to Section 11 to enter into contracts and perform other administrative functions on behalf of the Partnership.

2. **Purpose.** This MOU is being entered into in order to establish the North Valley Regional Recycled Water Project Partnership and to carry out the mission, goals, and objectives

stated herein related to the expansion of beneficial uses of recycled water in the North Valley Region.

While this MOU will coordinate the efforts of the Member Agencies to further the goals of the Partnership, there is no intent to form an independent Joint Powers Authority at this time as set forth in Government Code § 6500 et seq., nor is it the intent to form a formal partnership, but rather the intent is to form an unincorporated cooperative group of public agencies

3. Establishment of the Partnership. There is hereby established the North Valley Regional Recycled Water Project Partnership ("Partnership"). The geographic boundaries of the project Partnership shall be the North Valley Region. (See Exhibit A).

4. Partnership Membership. Any local and/or regional public agency regulated under the Clean Water Act, 33 U.S.C. § 1251 et seq., the federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq., and/or the state Safe Drinking Water Act, Health & Safety Code § 116275 et seq., or have responsibility for providing water for the irrigation of agricultural lands, that operates within or has jurisdiction over any area within the North Valley Region may be a Member Agency of the project Partnership. Each Member Agency must be a signatory to this MOU. A list of the agencies considered to be eligible for project Partnership membership, at the time this MOU was drafted, is attached as Exhibit B and incorporated by reference.

5. Coordination Committee.

(a) The Coordination Committee of the project Partnership shall consist of one representative from each Member Agency. Such representative shall be a Board member, Councilmember, general manager, city manager, or a suitable staff member of the Member Agency. In the event that the primary representative is unavailable for a meeting, he or she may designate an alternate.

(b) If the total number of Member Agencies renders plenary decision-making difficult and administratively impractical, the Coordination Committee may, by

unanimous vote of the representatives of all Member Agencies, create an Executive Coordination Committee of at least five (5) but fewer than seventeen (17) members, which shall have the powers and authority that the Member Agencies deem appropriate.

6. Voting and Authorization Requirements.

(a) Each representative on the Coordination Committee shall have one vote. Except as set forth in subsections (b) and (c) below and as otherwise specified herein, if a quorum is present, the affirmative vote of the majority of members of the Coordination Committee present is required to approve any item. In addition to conducting the regular business of the Partnership, the Coordination Committee may, by majority vote, authorize any contracts or amendment thereto to be entered into by the Administrative Agency on behalf of the Partnership, provided that the total amount of the combined contract and amendment does not exceed \$10,000, and providing that funding for the contract or amendment thereto is included in the currently adopted Partnership budget.

(b) Approval by all Member Agencies shall be required (i) to adopt or modify the budget and (ii) to authorize the Administrative Agency to enter into, modify, or accept work under any contract in excess of \$10,000.

(c) Approval by the governing bodies of all Member Agencies shall be required to modify this MOU.

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8. Terms of Office. Each representative on the Coordination Committee shall serve for as long as he or she is an employee, of his or her Member Agency and is designated by the Member Agency to act as its representative. If at any time a vacancy occurs on the Coordination

Committee, a replacement shall be appointed by the Member Agency to fill the unexpired term of the previous representative within ninety (90) days of the date that such position becomes vacant.

9. Alternates. Alternate representatives to the Coordination Committee shall be empowered to cast votes in the absence of the regular representative or in the event of a conflict of interest that prevents the regular representative from voting.

10. Officers of the Project Partnership. The Coordination Committee of the project Partnership may elect a Chair, a Vice-Chair, and such other officers as it deems appropriate. The duties of the Chair and Vice-Chair are as follows:

(a) Chair. The Chair shall direct the preparation of agendas, call meetings of the Coordination Committee to order, and conduct other activities as deemed appropriate by the Coordination Committee.

(b) Vice-Chair. The Vice-Chair shall serve as the Chair in the absence of the regularly-elected Chair. In the event both the Chair and Vice-Chair are absent from a meeting, which would otherwise constitute a quorum, and a temporary Chair was not designated by the Chair at the last regular meeting, any Board member may call the meeting to order, and a temporary chair may be elected by majority vote to serve until the Chair or Vice-Chair is present.

11. Administrative Agency. The Member Agencies hereby designate the City of Modesto to act as the Administrative Agency for the purpose of carrying out the provisions of this MOU. The authority delegated herein to the Administrative Agency shall be subject to the restrictions upon the manner of exercising power applicable to the Administrative Agency, including but not limited to the purchasing ordinances and purchasing procedures of the Administrative Agency. The Administrative Agency, for the benefit of the Partnership, shall:

(a) Award, execute in its own name, and administer such contracts on

behalf of the project Partnership, as may be authorized by the Coordination Committee or by the Member Agencies, as set forth in Section 6.

(b) Through its controller and treasurer, act as the financial officer, or functional equivalent, and be the depositor and have custody of all monies of the Partnership from whatever source. The Administrative Agency shall draw warrants to pay demands for expenditures authorized by the Coordination Committee or by its authorized representative pursuant to any delegation of Partnership authorized by the Coordination Committee.

(c) Provide budget analyses, warrant lists, and other financial documents as required by the Coordination Committee. The Administrative Agency's financial activities with regard to the Partnership shall be subject to an outside audit at any time at the request of the Coordination Committee.

(d) Determine charges to be made against the Partnership for the Administrative Agency's services. Payment of these charges shall be subject to the approval of the Coordination Committee.

(e) Prepare the reports identified in Section 17 if the Coordination Committee has not designated another party or person to complete that task. The Administrative Agency may resign its position as Administrative Agency upon 120 days written notice to all parties to the MOU, and shall, before the effective date of its resignation, transfer all funds held on behalf of the Partnership to any designated successor Administrative Agency. The Coordination Committee may designate a successor Administrative Agency by majority vote. Should no other party be designated to act as Administrative Agency by the effective date of the resignation, the MOU shall terminate and the Administrative Agency shall distribute all property held on behalf of the Partnership pursuant to Section 20.

(f) Provide legal services for litigation or other legal actions on behalf of the Partnership that may arise against the North Valley Regional Recycled Water Project. Reimbursement of legal costs shall be made to the Administrative Agency pursuant to Section 13.

12. Staff and Consultants. Subject to the approval and procedural provisions of Sections 6 and 11, and subject to the financial limitations provided in the adopted Partnership budget, the Administrative Agency may employ or contract for any staff or consultants as may be reasonably necessary to carry out the purposes of this MOU. Such persons may include legal counsel, administrative executives, and other types of specialists.

13. Sharing of Costs and Resources. The Coordination Committee may also assess each Member Agency for costs associated with paying the Administrative Agency, staff, or consultants, and the funding of approved projects, as authorized by the Coordination Committee or the Member Agencies, as set forth in Section 6. Any assessment shall only be valid after the Member Agencies have approved the budget. Assessments shall not exceed those expenses authorized in the budget.

14. Termination of Membership.

(a) Causes. A Member Agency's participation in this MOU shall terminate on the occurrence of any of the following:

(1) The voluntary resignation of a Member Agency with notice as prescribed by subsection (b) below;

(2) The nonpayment of assessments, subject to the limitations set forth in subsection (c) below; or

(3) The occurrence of an event which renders an entity no longer eligible for membership under Section 4 of this MOU, as determined by the Coordination Committee.

(b) Resignation by Giving Notice. The membership of any Member Agency of the Partnership shall terminate after the delivery of such Member Agency's written request for termination to the Chair of the Coordination Committee. Such notice shall be given at least thirty (30) days before the effective date of such resignation. There shall be no refund of any assessments upon such resignation.

(c) Nonpayment of Allocated Costs. The membership of any Member Agency of the Partnership shall be terminated if the Member Agency fails to pay its allocated costs within one hundred and twenty (120) days after such costs are due. Termination shall be effective upon the majority vote of the Coordination Committee. Member Agencies shall be given thirty (30) days prior written notice of a threatened termination and the reasons thereof. The notice may be delivered in person or by first-class, certified mail, fax, or e-mail to the Member Agency's representative on the Coordination Committee.

(d) Effect of termination. All rights of a Member Agency in the Partnership shall cease on the termination of such Member Agency's membership. Termination shall not relieve the Member Agency from any obligation for charges, costs, or liabilities incurred or arising from acts or omissions before the date of termination. The terminating Member Agency's responsibility for such charges, costs, or liabilities shall be determined in a manner consistent with the allocations set forth in Section 13. Likewise, termination shall not preclude the Member Agency from any benefits that fully accrue before the date of termination.

15. Procedures. The Coordination Committee may adopt bylaws, rules of conduct for meetings, and operating procedures for the Partnership. To facilitate such efforts, the Partnership may adopt the administrative procedures and policies of a Member Agency.

16. Meetings. The Coordination Committee shall provide for meetings, as necessary.

17. Reports to Member Agencies. Each year the Partnership shall submit a written report to the governing body of each of the Member Agencies. This report shall describe the financial activities of the Partnership during the preceding year.

18. Offices. For the purposes of forming the Partnership and for initial operation, the principal office of the Partnership shall be located at the Administrative Agency. The Coordination Committee may change said principal office from one location to another after providing thirty (30) days notice of such a change. The Chair shall notify each Member Agency in writing of the change.

19. Termination. This MOU shall remain in effect until terminated by majority vote of two-thirds of the representatives of all then-current Member Agencies. This MOU shall also be terminated if the Administrative Agency has resigned pursuant to Section 11 and no other Member Agency has been designated to act as the Administrative Agency prior to the effective date of the resignation.

20. Disposition of Property and Surplus Funds. At the termination of this MOU, any and all property, funds, assets, and interests therein held by the Administrative Agency on behalf of the Partnership shall become the property of and be distributed to the Member Agencies. Money collected from Member Agencies and held in reserve by the Administrative Agency for payment of the costs of programs shall be allocated among Member Agencies in proportion to each Member Agency's contributions to such reserves. All other property, funds,

assets, and interests shall be distributed by the Administrative Agency to Member Agencies in proportion to each Member Agency's contributions to the Partnership for allocated costs. However, liabilities of the Partnership in excess of those assets held by the Administrative Agency on behalf of the Partnership at the time of termination shall be assessed against the Member Agencies and said Member Agencies shall be responsible for such liabilities. The allocation of responsibility for the payment of such liabilities shall be determined in a manner consistent with the provisions of Section 13.

21. Minutes. A secretary or clerk may be appointed by the Coordination Committee or the Administrative Agency. If no secretary or clerk is appointed, the Administrative Agency shall cause to be kept minutes of all meetings of the Coordination Committee, and shall cause a copy of the minutes to be forwarded to each Member Agency.

22. Effective Date. This MOU shall become effective and the Partnership shall be established when at least four (4) agencies have authorized its execution.


23. Counterparts. This MOU may be executed in counterpart and each of these executed counterparts shall have the same force and effect as an original instrument and as if all of the parties to the aggregate counterparts had signed the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of

Understanding as set forth below.

CITY OF MODESTO

Member Agency

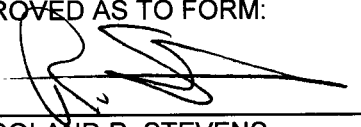
By: 
GREG NYHOFF, City Manager

Dated: _____

ATTEST:

By: 
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: 
ROLAND R. STEVENS,
Assistant City Attorney

STANISLAUS COUNTY


Member Agency

By: 
RICHARD W. ROBINSON,
Chief Executive Officer

Dated: 5-4-10

CITY OF TURLOCK

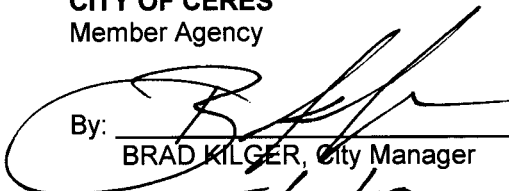
Member Agency

By: 
ROY WASDEN, City Manager

Dated: 5-3-10

CITY OF CERES


Member Agency

By: 
BRAD KILGER, City Manager

Dated: 5/3/10

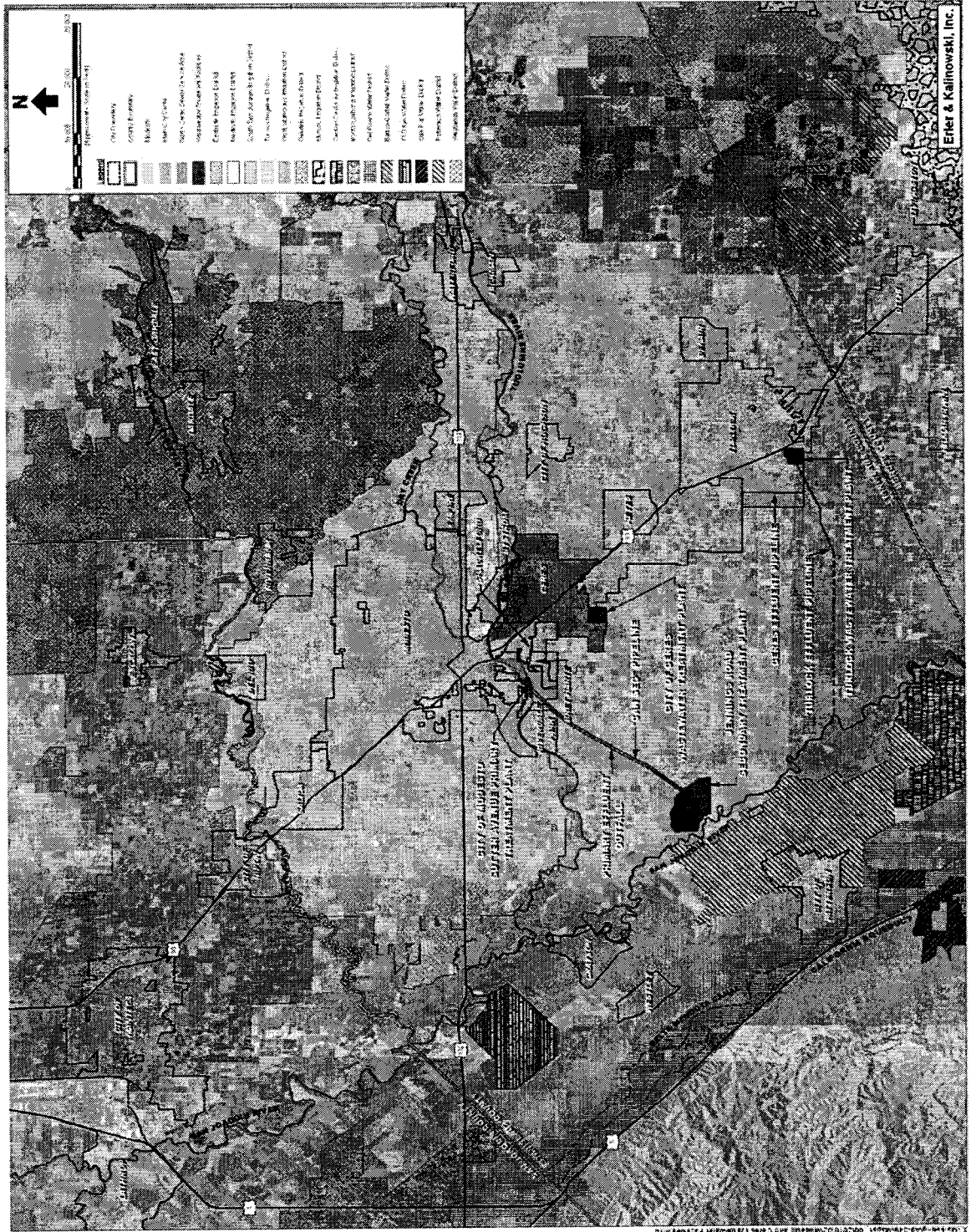
DEL PUERTO WATER DISTRICT

Member Agency

By: 
WILLIAM HARRISON, General
Manager

Dated: 5/5/10

Exhibit A



Ertel & Kalinowski, Inc.

Scale: 1 inch = 100 feet. Drawing Date: 09/02/2010. Drawing Title: South Wilsonville Water Treatment Plant.

Exhibit B

**North Valley Regional Recycled Water
Partnership**

Agencies Eligible for Membership

City of Modesto

City of Turlock

City of Ceres

Del Puerto Water District

Stanislaus County