

MINUTES OF THE WARNER RANCH  
COMMITTEE MEETING OF  
VISTA IRRIGATION DISTRICT

October 10, 2017

A meeting of the Warner Ranch Committee of Vista Irrigation District was held on Tuesday, October 10, 2017, at the offices of the District, 1391 Engineer Street, Vista, California.

**1. CALL TO ORDER**

Chair Dorey called the meeting to order at 9:05 a.m.

**2. ROLL CALL**

Committee members present: Dorey and MacKenzie.

Committee members absent: None.

Staff present: General Manager, Eldon Boone; Assistant General Manager, Brett Hodgkiss; Director of Water Resources, Don Smith; Water Resources Specialist, Mark Saltz; Secretary of the Board, Lisa Soto.

Other attendees: None.

**3. APPROVAL OF AGENDA**

The Committee approved the agenda as presented.

**4. PUBLIC COMMENT TIME**

No public comments were presented on items not appearing on the agenda.

**5. RECREATIONAL CONCESSION**

See staff report attached hereto.

Director of Water Resources Don Smith said that the Recreational Concession and associated hunting sub-concession was set to expire on December 31, 2017. Staff has been drafting a new agreement, incorporating all of the amendments and trespass sub-leases that have been added over the years. Director MacKenzie requested that when this item is presented to the Board that staff include a list of the amendments that were incorporated into the new agreement with a brief description of each.

The Committee inquired as to the status of the current amendment for "put and take" hunting on Warner Ranch, which Chair Dorey recalled was approved on a trial basis. Mr. Smith stated that very little "put and take" hunting has been done; however, the Mendenhalls would like to include it as part of the new agreement. The Committee wanted to be assured that the District could cancel certain provisions of the agreement, such as "put and take" hunting, if it so desires. Assistant General Manager Brett Hodgkiss stated that all of the trespass sub-leases for the hunting concession contain a provision for termination upon 30 days written notice.

The Committee discussed the requirements for maintenance associated with the new agreement and wanted to make sure that the District will have an expressed right to inspect the properties, structures, etc. covered in the agreement. The Committee discussed the difference between regular maintenance and capital improvements. Mr. Smith said that staff is not recommending that the creation of a capital improvement fund be included in the agreement; instead, the concessionaire will be required to maintain the properties, structures, etc. to their original or best condition.

Chair Dorey requested a simple spreadsheet showing the adjusted gross receipts for the Concession over the past 12 years, and how much revenue was received by the District each of those years. The formula for the concession fee is recommended to remain unchanged: 10 percent of adjusted gross receipts over \$35,000; 15 percent over \$40,000; and 20 percent over \$50,000.

The Committee requested to meet in November to review the final draft of the agreement before its presentation to the Board in December. Director MacKenzie requested the inclusion of a chart showing all of the different hunting on Lake Henshaw and Warner Ranch and what time of year each takes place. The revenues received by the District for the hunting sub-leases were reviewed, and it was noted that no changes are recommended.

The Committee directed staff to discuss the length of the term of the agreement with the Mendenhalls. The Committee expressed satisfaction and appreciation for the job the Mendenhalls have done. The Committee indicated that it would be agreeable to a long-term lease.

## **6. GRAZING LICENSES**

See staff report attached hereto.

The Committee reviewed the proposed grazing licenses with Hein Hettinga and the Mendenhall Cattle Company. Mr. Smith stated that staff recommends contract renewal with the District's existing licensees at a rate of \$13.00 per Animal Unit Months (AUM). He noted that this grazing fee would match the fee charged for grazing on the Fallbrook Naval Weapons Station, which has grazing conditions similar to the Warner Ranch.

The Committee discussed the status of the Ranch Improvement Fund included as part of the current lease with Hein Hettinga and was agreeable to its discontinuation. Director MacKenzie requested clarification regarding the timing of payment of supplemental license fees by the Mendenhall Cattle Company; Mr. Smith confirmed Director MacKenzie's understanding that the supplemental license fees would be paid in arrears at the end of the calendar year. The Committee requested that this information be included in the Committee report to the Board. The Committee also requested that the term of the new license agreements be effective as of January 1, 2018.

## **7. FERAL PIG MANAGEMENT**

See staff report attached hereto.

Mr. Smith stated that the Inter-Governmental Group of Feral Pig Impacts (Pig Group) has had great success in irradiating the feral pig population in San Diego County (County). It is believed that the current feral pig population is down to only one or two boars. While efforts to monitor and trap the last feral pig(s) are ongoing, the Pig Group is ready to undertake Phase II of the monitoring program to detect or confirm the absence of feral pig in the County. The budget for Phase II is \$119,340. Mr. Smith said that the San Diego Association of Governments has committed to contributing \$50,000 for Phase II, which leaves a \$69,340 shortfall. The Committee discussed the matter and was in agreement to

recommend to the Board a contribution by the District of \$10,000 towards the Phase II Monitoring Program, contingent upon the balance of the Phase II budget being funded.

**8. LAND USE AGREEMENTS ON WARNER RANCH**

See staff report attached hereto.

The Committee reviewed with great interest the informational report regarding the various land use agreements on the Warner Ranch and accepted the informational report.

**10. COMMENTS BY COMMITTEE MEMBERS**

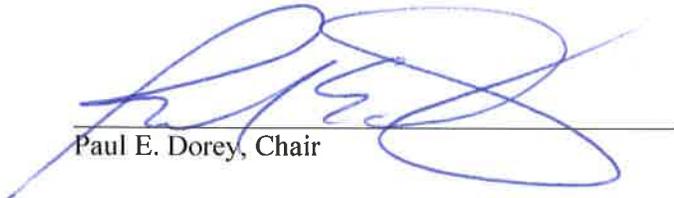
None were presented.

**11. COMMENTS BY GENERAL MANAGER**

None were presented.

**12. ADJOURNMENT**

There being no further business to come before the Committee, Chair Dorey adjourned the meeting at 10:53 a.m.



Paul E. Dorey, Chair

ATTEST:



Lisa Soto, Secretary  
Board of Directors  
VISTA IRRIGATION DISTRICT



**WARNER RANCH  
COMMITTEE REPORT**

**Agenda Item: 5**

**Meeting Date: October 10, 2017**  
**Prepared By: Don Smith**  
**Reviewed By: Brett Hodgkiss**  
**Approved: Eldon Boone**

SUBJECT: RECREATIONAL CONCESSION

RECOMMENDATION: Discuss provisions to be contained in a new Concession Management Agreement.

PRIOR BOARD ACTION: On April 5, 1995, the Board approved the Concession Management Agreement for the Lake Henshaw Recreation Area (Recreational Concession). The Recreational Concession has been amended eight (8) times, including amendments approving the purchase of all shares of Lake Henshaw Resort, Inc. by Frank and Janice Mendenhall from Al and Gwen Socin and a Trespass Sublease Agreement with My Country Club, Inc. for hunting activities on the Warner Ranch.

FISCAL IMPACT: The fee for the Recreational Concession is variable based on “Adjusted Gross Receipts”; in fiscal year 2017, the total concession payment, not including the hunting sub-concession, was \$47,500. The hunting sub-concession presently produces earnings of \$110,000 per year for the District.

SUMMARY: The Recreational Concession and associated hunting sub-concession will expire on December 31, 2017. Lake Henshaw Resort, Inc. has expressed interest in continuing as the District’s Concessionaire; staff recommends entering into a new agreement with Lake Henshaw Resort, Inc., incorporating language from multiple amendments and adding new language and/or provisions as needed.

DETAILED REPORT: The primary activities under the existing Recreational Concession include:

1. Mobile home park
2. Campground
3. Cabin rental
4. Fishing and boating on Lake Henshaw
5. General store
6. Restaurant (Roundup Grill)
7. Public waterfowl hunting on Lake Henshaw
8. Hunting sub-concession on the Warner Ranch, including deer, turkey, dove, quail, archery deer, put and take of game birds

Other significant provisions include the Concession Fee (10% of adjusted monthly gross receipts over \$35,000 but less than \$40,000; 15% over \$40,000 but less than \$50,000; and 20% over \$50,000), requirements for capital improvements and major maintenance and the term of the agreement (original agreement was for a period of ten years with two optional five year renewal periods).



**WARNER RANCH  
COMMITTEE REPORT**

**Agenda Item: 6**

**Meeting Date: October 10, 2017**  
**Prepared By: Don Smith**  
**Reviewed By: Brett Hodgkiss**  
**Approved: Eldon Boone**

SUBJECT: GRAZING LICENSES

RECOMMENDATION: Review proposed grazing licenses with Hein Hettinga and Mendenhall Cattle Company.

PRIOR BOARD ACTION: On January 18, 2006 the Board authorized the General Manager to execute a grazing lease with Hein Hettinga. On February 6, 2008 the Board authorized the General Manager to execute a grazing license with the Mendenhall Cattle Company.

FISCAL IMPACT: If approved, the new grazing license with Hein Hettinga would produce \$187,200 per year as a base license fee, plus \$13.00/head per month in supplemental license fees. If approved, the new grazing license with Mendenhall Cattle Company would produce \$9,360 per year as a base license fee, plus \$13.00/head per month in supplemental license fees. The current agreements produce \$186,870 and \$13,340 is base fee revenue per year plus \$12.34/head in supplemental fees.

SUMMARY: Hein Hettinga and the Mendenhall Cattle Company have held long term grazing agreements with the District and have proven to be responsible, responsive lessees/licensees. The cattle lease with Hein Hettinga has expired and is in holdover; the grazing license with Mendenhall Cattle Company will expire December 31, 2017. Staff recommends entering into new grazing license agreements with Hein Hettinga and Mendenhall Cattle Company with modified terms as described below.

DETAILED REPORT: The District retained the services of Perdue Russell & Matthies Real Estate Appraisal to assess market rates for grazing agreements in advance of executing new grazing licenses with Hein Hettinga and Mendenhall Cattle Company. The comparable per head monthly grazing fees range from \$1.69 to \$31.00 per Animal Unit Months(AUM) with the variation depending largely on public versus private leases and expected quality of forage (pastures in the wetter, northern part of the State with significantly greater forage production tended to command higher rents). The grazing license on the Fallbrook Naval Weapons Station has similar grazing conditions as the Warner Ranch, and its grazing fee is set at \$13.00/AUM.

The District's current grazing fees are set at \$11.12/AUM for base rents and \$12.34/AUM for supplemental rents. Staff recommends contract renewal with the District's existing licensees at a \$13.00/AUM rate. Both licensees have tentatively agreed to that rate with other changes in the terms of their existing agreements as described below.

The proposed grazing license with Hein Hettinga differs from the existing grazing lease as follows:

- The proposed minimum AUM for the base license fee would be reduced from 1,400 AUM to 1,200 AUM per month; the proposed AUM rate would increase from \$11.12/AUM to \$13.00/AUM. The proposed supplemental license fee would increase from \$12.34/AUM to \$13.00/AUM. With these proposed changes, the total grazing fee remain effectively unchanged at stocking rates of 1,200 AUM or less; total grazing license fees would increase with higher stocking rates.
- The Ranch Improvement Fund established with a portion of the rents from the existing lease would be eliminated.

- The expired lease was for a seven (7) year period and contained a holdover provision; the new license proposes a year to year term. Either party may terminate the grazing license by giving 180 days notice.

The proposed grazing license with the Mendenhall Cattle Company differs from the existing grazing license as follows:

- The proposed minimum AUM for the base license fee would be reduced from 100 AUM to 60 AUM per month; the proposed AUM rate would increase from \$11.12/AUM to \$13.00/AUM. The proposed supplemental license fee would increase from \$12.34/AUM to \$13.00/AUM. The supplemental license fee is proposed to only be assessed if the base stocking rate is exceeded over a 12 month period (i.e., if the aggregate AUM for 12 months is greater than 720, or 12 months x 60 AUM/month). With these proposed changes, the total grazing fee remains effectively unchanged for average stocking rates of 85 AUM; total grazing license fees increase for higher stocking rates and decrease for lower stocking rates.
- The current license agreement was for a period of about ten (10) years; the new license proposes year to year term. Either party may terminate the grazing license by giving 180 days notice.

ATTACHMENTS:

- Grazing Consultation Letter, Perdue Russell & Matthies Real Estate Appraisal
- Hettinga Grazing License
- Mendenhall Grazing License

# PERDUE RUSSELL & MATTHIES REAL ESTATE APPRAISAL

41881 5<sup>TH</sup> Street, Temecula, CA 92590  
Serving Southern California

Appraisal Consultants to Government, Financial, Legal and Agricultural Industries

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February 22, 2017

Don Smith  
Director of Water Resources  
Vista Irrigation District  
1391 Engineer Street  
Vista, CA 92081-8836

Re: *Letter of Consultation*  
AUM Rental Market Survey  
34,000 acre Grazing Lease - "Warner Ranch"  
Lake Henshaw, North San Diego County, California  
Our File Number: 2016-32

Dear Mr. Smith,

As requested, we have performed research of market data comparable to the subject 34,000 acre grazing lease situated in the County of San Diego, State of California, generally known and referred to as "Warner Ranch", consisting of portions of the Rancho San Jose del Valle and Rancho Valle de San Jose.

The purpose of our consultation is to provide you with lease information to assist in the negotiations of your grazing lease renewals. This is not an appraisal of the subject property, but rather we are providing rental comparables for your use in evaluating the subject property leases. The relevant market data is identified in the table on the attached pages. While we inspected the property on October 9<sup>th</sup>, 2016, the effective date of the consulting service is November 11, 2016, the last day of a drive by inspection.

**It is important to note this is a Consultation Assignment. Specifically, this does not include a report of the results of an appraisal with the definition of an appraisal problem. It does not lead to a specific value conclusion using reasoning and relevant descriptive data. This Consultation Assignment conforms with Standards Rules 4 and 5 of the Uniform Standards of Professional Appraisal Practice (USPAP.)**

This consultation letter is intended for use by the client, Mr. Don Smith, as the authorized agent for the Vista Irrigation District (VID). The intended use is for the re-negotiations of the subject grazing lease.

We have completed a field inspection of the subject property on October 9, 2016 and again on November 11, 2016. The appraiser, along with Mitchell Perdue, California State Certified Rangeland Manager, conducted a comprehensive search for comparable leases to include in the market survey.

The primary use of the Subject's 34,000 acres (Lake Henshaw) is for the production of drinking water. A secondary compatible use of the holding are 3 (three) grazing leases. Total rents from the three grazing leases range from a low of \$201,723 to a high of \$223,986 over the past five years. Of the three existing leases, the largest grazing lease presently pays a minimum of \$11.12 to a maximum of \$12.34/AUM. The tenant, Hein Hettinga, is currently grazing dairy replacement cows. The two other grazing leases are cow/calf operations with the Taylor lease consisting of 95 acres and a simple base rate of \$1,650.00 renewed in 2016 for a 5-year term and the Mendenhall Cattle Co. which runs the other cow/calf lease and pays a minimum of \$11.12 to a maximum of \$12.34/AUM.

### **GRAZING LEASE RENTAL MARKET COMPARABLES**

Due to the limited number of grazing leases remaining in San Diego County and even Southern California, the market area for comparable grazing leases was expanded to include all of California.

Over two dozen San Diego grazing lease lessee/lessor contacts were made. We were only able to discover nine leases. These include public BLM / Forest leases and private leases. The loss of leases relates to urban development, purchases by the Nature Conservancy and others and wildfires. For contacts utilized, see Grazing Lease Market Data Summary.

The Market Data Summary Grid on the attached page contains rental comparables that best represent the California grazing lease market.

### **GRAZING LEASE COMPARABILITY METHODOLOGY**

Our Market survey approach for the property was based on three primary factors: 1. Similar grazing management objectives and constraints, 2. Proximity to subject leases and 3. Lease owner mandates and responsibilities.

Operational costs and potential revenue vary greatly between agricultural practices on leased lands. For example, rental rates for nursery or cut flowers in San Diego County would far exceed a rental return for a grazing lease on the same parcel. This is also true

for different types of grazing. The subject leases allow for grazing of heifer replacements and feeder stock cows but not for sheep or goats. The subject lease has good fencing and water improvements with large pastures. Grazing management strategies are implemented to meet water quality objectives. Due to the large acreage, the leases are grazed year round. Therefore, the survey focused on comparable grazing leases that had good infrastructure including fencing and water and identified management objectives within a lease management plan.

The subject leases occur in a Mediterranean climate consisting of seasonal winter rains, moderate temperatures and annual grasslands similar to the foothills throughout southern and central California. Peak forage production occurs as early as November and lasts until July/August annually. Recent el Nino conditions have brought irregular precipitation patterns and in turn have brought early rains and extreme late monsoon rains to the VID rangelands thus increasing year-round forage.

Although located in rural San Diego County, the subject leases are relatively close to major transportation routes and industry amenities. With the recent popularity in grass-fed beef, it is now more critical to have relative close proximity to USDA certified processors to meet the “Ranch to Table” market requirements. While the primary survey focus was on leases within San Diego County, all other California leases that met the above mentioned criteria were included.

Warner Ranch is owned by the Vista Irrigation District (VID), which is a Special District under LAFCO and managed by an elected board of directors. The primary mandate for VID is to transport and store water for residential, commercial and agricultural purposes. Under specific management practices, the grazing leases are considered compatible with VID’s mandate. Federal, state, county and special districts own a majority of the grazing leases throughout the west. Although the mandates for each agency may differ, management practices and stewardship strategies are typically very similar. This would include avoiding overgrazing, protecting water quality and managing for endangered species.

Most rental rates for public grazing leases are determined by sealed bid or sole source negotiation supported by an appraisal except for federal leases on Bureau of Land Management, National Park Service and Forest Service land where the rate is mandated by Congress. Management mandates and objectives for private lease holdings including mitigation and preserve lands are typically at the discretion of the owner and therefore, vary greatly between leases. Since the subject property is a Special District holding, special attention was given to leases that were publicly held and had agency mandates and objectives.

The strength of the market survey lies in the ability to compare the subject leases to those leases that have similar grazing strategy with like objectives and constraints. There is also the necessity to find leases where the climate, elevation and topography are similar and forage production replicates subject lease.

### **GRAZING LEASE MARKET DATA SUMMARY**

The **private leases** range from 320 to 65,000 acres in size. The properties can hold from 360 to 25,200 AUMs with lease rates ranging from **\$6.25/AUM to \$12.81/AUM**.

The **public leases** (including Special Districts) range from 4,500 to 57,000 acres in size. The properties can hold 400+ AUMs with lease rates ranging from **\$13/AUM to \$30.85/AUM**.

The **public leases with AUM rental rate mandated** range from 1,920 to 28,880 acres in size. The properties can hold from 46 to 5,400 AUMs with lease rates ranging from **\$1.69/AUM to \$2.11/AUM**.

Thank you for the opportunity to be of service. Should you have any questions, please contact our office.

Sincerely,

PERDUE RUSSELL & MATTHIES REAL ESTATE APPRAISAL



Robert Shea Perdue, MAI  
State of California  
Certified General Real Estate

### Subject VID MAU Rental History

Fiscal

<u>Year End</u>	Tenants:	<u>1. Hettinga</u>	<u>2. Mendenhall</u>	<u>3. Taylor</u>	<u>Year End Summaries</u>
6/30/2007		\$ 123,202	\$ -	\$ 1,500	\$ 124,702
6/30/2008		\$ 267,190	\$ 3,832	\$ 1,500	\$ 272,522
6/30/2009		\$ 245,573	\$ 12,973	\$ 1,500	\$ 260,046
6/30/2010		\$ 214,332	\$ 13,578	\$ 1,500	\$ 229,410
6/30/2011		\$ 214,305	\$ 15,528	\$ 1,500	\$ 231,333
6/30/2012		\$ 199,827	\$ 14,100	\$ 1,500	\$ 215,427
6/30/2013		\$ 186,023	\$ 14,200	\$ 1,500	\$ 201,723
6/30/2014		\$ 208,057	\$ 14,429	\$ 1,500	\$ 223,986
6/30/2015		\$ 192,936	\$ 13,194	\$ 1,500	\$ 207,630
6/30/2016		\$ 194,861	\$ 13,416	\$ 1,650	\$ 209,927

### Grazing Lease Market Data Summary - Vista Irrigation District, Lake Henshaw

No	Lease Point of Contact	Owner	Lessee	Location	Lease Term	Acres Grazed	Reimbursement Work Req (Y/N)	Fencing (Y/N)	Water (Y/N) Multiple Sources	Threatened & Endangered Restrictions (Y/N)	Seasonal Use (Y/N)	Rental AUM	Comments
1	Lance Criley (619) 445-6235 x3457	USFS	10 Lessees	Cleveland National Forest	5-years	Various	No	Yes	Yes	Yes	Yes	<b>\$2.11</b>	*Numerous leases from Jamul to Santiago Peaks (near Corona).
2	Ce Ce Dahlsrom (619) 532-3745 cell 619-565-8307	Navy	Mendelhall	Fallbrook, CA	5-years	400	Yes, both reim and nonreim	Yes	Yes	Yes	Yes	<b>\$13.00</b>	Threatened & Endangered SKR and Gnatcatcher.
3	A.R. "Bob" Williss 760-743-3803 (760) 742-2022	Rancho Lilac	A.R. "Bob" Williss	Valley Center, CA	year to year	1000	Yes, both reim and nonreim	No	Yes	Yes	No	<b>\$0 - Rent credit bases</b>	Property is in escrow and slated for development, hence, low rent.
4	4J Horse and Livestock John Austel 13208 Proctor Valley Rd Jamul, Ca 91935 619 884-0424	Rancho Jamul Ecological Reserve	John Austel	Jamul, CA	5-years	Various	Yes, both reim and nonreim	Yes	Yes	Yes	Yes	<b>\$6.25 to \$8.00</b>	Gnatcatcher, SKR.
5	Denise DeFreeze, Stewardship Manager 510-544-2344 ddefreeze@ebparks.org	East Bay Regional Parks,	Various Lessees	Oakland, CA	5-years	Various	Yes, both reim and nonreim	Yes	Yes	Yes	Yes	<b>\$27.70 to \$30.85</b>	Threatened & Endangered Red Legged Frog.
6	Dillon Voler, 1 Bear Valley Rd, Point Reyes Station, CA 94956 (415) 464-5219	Point Reyes National Seashore	Various Lessees	Point Reyes, CA	5-years	Various	Yes, just nonreim	Yes	Yes	Yes	Yes	<b>\$7.00</b>	Gross rent based on appraisal for fair market value and they deduct all the maintenance required to arrive at the net rental rate.
7	Clayton Koopman, 330 Distel Circle, Los Altos, CA 94022 (925) 819-0413	Midpeninsula Regional Open Space District	Various Lessees	San Mateo, CA	5-years	Various	Yes, both reim and nonreim	Yes	Yes	Yes	Yes	<b>\$16.00</b>	Threatened & Endangered Red Legged Frog.
8	Elizabeth Presha, Ranger Supervisor East Bay Municipal MWD epresha@ebmud.com (510) 287-2022	East Bay Municipal Water District	Various Lessees	Central Cal and Western Sierra	5-years	Various	Yes, both reim and nonreim	Yes	Yes	Yes	Yes	<b>\$25.00 to \$31.00</b>	Threatened & Endangered Red Legged Frog.
9	Chuck Foreman 951-377-2460	Confidential	Confidential	Riverside County	month to month	800	No	Yes	Yes	No	Yes	<b>\$25.00</b>	Near Moronga Casino. Pasture dry part of the year.

# GRAZING LICENSE AGREEMENT

This License Agreement (“License”) is made and entered into as of \_\_\_\_\_, 2017 by and between the **VISTA IRRIGATION DISTRICT**, a political subdivision of the State of California organized under the Irrigation District Law, California Water Code Section 20500, et seq. (“VID”), and **HEIN HETTINGA**, an individual, as Licensee (“Licensee”).

## PART I

### FUNDAMENTAL LICENSE TERMS

**1.1 License.** VID hereby issues to Licensee a non-exclusive License to enter upon the following real property owned by VID, for the purpose or activity specified in Paragraph 1.1.2:

**1.1.1 Licensed Property.** Portions of the Warner Ranch consisting of the Rancho San Jose del Valle and Rancho Valle de San Jose, comprising approximately 24,600 acres, as described and shown on a map attached hereto as Part IV and incorporated herein by this reference (“Premises”).

**1.1.2. Use of Premises.** For and during the term of this License, Licensee shall use the Premises solely and exclusively for heifer replacement herd for dairies and grazing of feeder stock in times when there is excess grass.

**1.2 Term.** This License shall commence on September 1, 2017 (“Commencement Date”) and shall continue from year to year unless either party gives notification to modify or terminate the License in its entirety pursuant to Paragraph 2.8.

### **1.3 Termination.**

**1.3.1** This License may be terminated by either party with a 180 day written notice of intent to terminate the License.

**1.3.2** The Licensee may elect to terminate this License with 90 days written notice if, through no fault of its own, one-third or more of the Premises have been burned or otherwise made unusable for the purpose intended.

**1.3.3** Licensee shall be in material default under the terms of this Agreement if Licensee fails to pay any amount due under this Agreement or fails to perform or observe any term, covenant, or undertaking in this Agreement to be performed or observed by it and such default continues for 30 calendar days after such performance is due. If an event of default occurs under this Agreement, VID may, at its option, terminate this Agreement at any time thereafter by giving notice to the Licensee at least five business days before the termination is to be effective. If the Agreement is terminated under this provision, Licensee shall remove all its personal property from the Property within 20 calendar days. If such removal is not completed within the 20 days, VID may, at its option, take such measures as VID, in its sole discretion, deems necessary to accomplish such complete removal and the expenses therefor will be paid by Licensee.

## **1.4 License Consideration.**

**1.4.1 Base License Fee.** Licensee shall pay to the VID an initial annual fee (the “Base License Fee”) for the use of the Premises in the amount of \$187,200 for the period from January 1, 2018 through December 31, 2018 (“First Year”), payable in advance in monthly installments of \$15,600 for each and every month during the First Year, and indexed to the Consumer Price Index for all subsequent years as described below. (\$15,600 is equivalent to 1,200 AUM @ \$13.00 per month.) "AUM" shall mean the forage consumed by one mature animal unit (weighing 700 pounds or more) in one month, or “Animal Unit Month”. Any weaned animal weighing less than 700 pounds shall be considered one-half AUM. Commonly, a weaned calf shall be deemed one-half AUM until it reaches nine months of age, at which time and thereafter it shall be deemed a full AUM. A cow and her unweaned calves together shall be considered one AUM. Beginning with the second year (January 1, 2019 through December 31, 2019) and for every subsequent year, the yearly Base License Fee (and supplemental license fee, as described below) shall be adjusted as indexed for inflation. The index shall be taken as the first half semiannual average (January through June) of the Consumer Price Index, All Urban Consumers, San Diego published by the United States Department of Labor, Bureau of Labor Statistics (“Index”). For the first year, the value of the Index is 281.561; subsequent base and supplemental license fees shall be adjusted by the percentage change in the value of the Index. In the event that the United States ceases to publish or maintain the Index, upon written notice to Licensee, VID shall use a similar index published by the United States or, if none is published by the United States, a similar index published by State of California or another governmental entity.

**1.4.2 Supplemental License Fee.** Any month when the AUM count on the Premises is over 1,200 AUM, a supplemental license fee of \$13.00 per AUM month (during the First Year) for each AUM over 1,200 shall be paid. All supplemental license fees shall be computed and paid monthly, with the base license fee. There shall be no deduction or offset against the base license fee when there are less than 1,200 AUM on the Premises in any month. Licensee shall furnish VID a written report of the AUM count for each month which shall accompany any supplemental license fee which may be due. Beginning January 1, 2019, this supplemental license fee shall be adjusted for inflation as described in Paragraph 1.4.1.

**1.5 Notices and Payments.** All payments, notices and other writings required to be delivered under this License to either party shall be delivered in accordance with the provisions of Part II (“General Provisions”), to VID at the address set forth in Part II, and to Licensee at the address set forth in this Part I.

**1.6 Attachments.** This License incorporates by reference the following Attachments to this License:

Part I:	Fundamental License Terms
Part II:	General License Provisions
Part III:	Special License Provisions
Part IV:	Premises



## **PART II**

### **GENERAL LICENSE PROVISIONS**

#### **2.1 Payment of License Fee**

2.1.1 **Timing of Payment.** The payments to VID shall be made on or before the fifteenth day of each calendar month, and any payment or portion thereof made after that date shall be considered late. The Licensee shall pay to VID a late charge as set forth in Paragraph 2.2.1.

2.1.2 **Transmittal of Payments.** Licensee shall make all License Fee payments, and pay all other sums due under this License, in lawful money of the United States, by check payable to "VISTA IRRIGATION DISTRICT," and shall personally deliver or mail all payments without any notice or demand to VID at the address set forth in Paragraph 2.8.1 below. Licensee assumes all risk of loss or late payment if any payment is made by mail.

2.1.3 **No Offsets.** All License Fees and other sums due under this License shall be paid without offset or deduction, and shall be deemed payments on account. Neither the payment by Licensee nor the acceptance by VID of any License Fee or other sum in an amount which is less than the amount due and payable pursuant to this License, nor the issuance of a monthly statement showing as due and payable an amount less than is properly due and payable pursuant to the terms of this License, shall constitute an agreement by VID modifying this License or a waiver of VID's right to receive all sums provided for in this License. No endorsement or statement on any check or any letter accompanying any check or payment shall be deemed an accord or satisfaction, and VID shall accept all checks and payments from Licensee without prejudice to VID's right to recover the balance of the amount due or to pursue any other remedy in this License or otherwise provided by law.

#### **2.2 Charges for Payment of License Fee**

2.2.1 If any payment of any License Fee or any other sum due VID is not received by VID on or before the fifteenth day of each calendar month, Licensee shall be deemed delinquent in its License Fee payment and a late charge of one and one-half percent (1.5%) of the delinquent amount shall become immediately due and payable to VID. An additional charge of one and one-half percent (1.5%) of such delinquent License Fee payment (excluding late charges) shall be added for each additional calendar month (or portion thereof) that the delinquent sum remains unpaid.

2.2.2 Licensee and VID hereby acknowledge and agree that such late charges do not represent and shall not be deemed to be an interest payment, but that such late charges represent a fair and reasonable estimate of the costs and expenses that VID will incur by reason of Licensee's late payment.

2.2.3 Acceptance by VID of any delinquent License Fee payment or late charge shall in no way constitute a waiver of Licensee's default with respect to such overdue and delinquent payment, or in any way impair, prevent or restrict VID from exercising any of its rights or remedies set forth in this License or otherwise provided at law.

## 2.3 Use of Premises

2.3.1 Conditions of Use. For and during the term of this License, Licensee's use of the Premises shall be subject to the following conditions, covenants and restrictions:

2.3.1.1 Except as provided in this License, the Premises shall be used only for the purposes specified in Paragraph 1.1.2 above, and the Premises shall not be used for any other use or purpose whatsoever, without the prior written consent of VID.

2.3.1.2 Licensee shall not cause, permit or suffer any "hazardous material," "hazardous waste" or "hazardous chemicals" as those terms are used in CERCLA (42 U.S.C. § 9601(14)) or SARA (42 U.S.C. § 110211(e)) or any similar Federal, State, or local law, statute, ordinance, regulation or order, or otherwise determined by VID, to be brought upon, left, used or abandoned on the Premises.

2.3.1.3 Licensee shall not maintain, commit or permit the maintenance or commission of any waste or any nuisance (as defined in California Civil Code section 3479) on the Premises, and Licensee shall not use or permit the use of the Premises for any unlawful purpose.

2.3.1.4 VID or its authorized representative shall have the right at all reasonable times to enter upon the Premises and inspect the general condition of the Premises to determine if Licensee is complying with the terms, conditions, requirements and provisions of this License.

2.3.2 Utilities and Services. Licensee shall be solely responsible for obtaining all utility service and for the payment of all utility charges, including but not limited to water and power, supplied to the Premises.

2.3.3 Permits and Approvals. Licensee shall obtain any and all governmental permits, approvals, licenses or other authorizations which may be required in connection with the use of the Premises as set forth in this License. No approval or consent given under this License by VID shall affect or limit Licensee's obligations hereunder, nor shall any approvals or consents given by VID, in its capacity as a party to this License, be deemed to be approval as to compliance or conformance with any applicable governmental codes, laws, orders, rules or regulations.

2.4 Insurance. Without limiting Licensee's indemnification obligations, Licensee shall not enter or occupy the Premises until Licensee has obtained all of the insurance required herein from a company or companies acceptable to VID, and Licensee shall maintain all such insurance in full force and effect at all times during the term of this License and any extension or renewal thereof. Insurance shall be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by VID.

2.4.1 Licensee shall take out and maintain the following insurance:

2.4.1.1 Workers' Compensation and Employer's Liability Insurance. Licensee shall cover or insure under the applicable laws relating to workers' compensation insurance all of its employees working on or about the Premises, in accordance

with the “Workers’ Compensation and Insurance Act,” Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Licensee shall provide worker’s compensation insurance and employer’s liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence, One Million Dollars (\$1,000,000) disease policy limit, and One Million Dollars (\$1,000,000) disease each employee. Such policy of workers compensation insurance shall contain the following separate endorsements:

(a) “Insurer waives all rights of subrogation against the Vista Irrigation District, its officers, directors, employees, representatives and volunteers.”

(b) “This insurance policy shall not be suspended, voided, reduced in coverage or in limits, cancelled, limited, non-renewed or materially changed for any reason by the insurer until thirty (30) days after receipt by the Vista Irrigation District of a written notice of such cancellation, limitation or reduction of coverage.”

2.4.1.2 Commercial General Liability Insurance providing coverage in the following minimum limits:

(a) Combined single limit of One Million Dollars (\$1,000,000) per occurrence for Bodily Injury, Personal Injury or Death and Property.

(b) Damage Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage (occurrence Form CG 0001).

(c) If Commercial General Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503 or ISO CG 2504, or insurer’s equivalent endorsement provided to VID), or the general aggregate limit shall be twice the required occurrence limit.

2.4.1.3 Comprehensive Automobile Liability Insurance, including owned, non-owned, leased, hired, and borrowed automobiles and similar vehicles, providing the following minimum limits:

(a) Combined single limit of One Million Dollars (\$1,000,000) per occurrence for Bodily Injury or Death and Property Damage.

(b) Coverage shall be at least as broad as Insurance Services Office (ISO) Business and Auto Coverage (Form CA 0001) covering any auto.

2.4.2 Endorsements. The policies of liability insurance provided for in Paragraphs 2.4.1.2 and 2.4.1.3 shall specify that this specific License is insured and that coverage for injury to participants resulting from Licensee's activities is not excluded, and shall be in a form satisfactory to VID and contain the following separate endorsements:

(a) “The Vista Irrigation District, its officers, directors, employees, representatives and volunteers, are declared to be additional insureds on all of the above policies with respects to the operations and activities of the named insured

at or from the premises of the Vista Irrigation District. The coverage shall contain no special limitations on the scope of protection afforded to the Vista Irrigation District, its officers, directors, employees, representatives and volunteers.”

(b) “This insurance policy shall not be suspended, voided, reduced in coverage or in limits, canceled, limited, non-renewed, or materially changed for any reason until thirty (30) days after receipt by the Vista Irrigation District of a written notice of such cancellation, limitation or reduction of coverage.”

(c) “This insurance policy is primary insurance and no insurance held or owned by the designated additional insureds shall be called upon or looked to cover a loss under said policy; the Vista Irrigation District shall not be liable for the payment of premiums or assessments on this policy.”

(d) “Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Vista Irrigation District, its officers, directors, employees, representatives, or volunteers.”

(e) “This insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.”

2.4.3 Evidence of Coverage. Licensee shall at the time of the execution of the License present to VID the original policies of insurance required by this Paragraph 2.4 or a certificate of the insurance, with separate endorsements (Insurance Services Office Form CG 2026, or equivalent), showing the issuance of such insurance and the additional insured and other provisions and endorsements required herein and copies of all endorsements signed by the insurer’s representative. All policies shall contain the Licensee’s name and location of the Premises on the certificate. At least thirty (30) days prior to the expiration of any such policy, a signed complete certificate of insurance, with all endorsements provided herein, showing that such insurance coverage has been renewed or extended, shall be filed with VID. Licensee’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

2.4.4 Review of Coverage. VID shall have the right at any time to review the coverage, form, and limits of insurance required under this License. If, in the sole and absolute discretion of VID, the insurance provisions in this License do not provide adequate protection for VID, VID shall have the right to require Licensee to obtain insurance sufficient in coverage, form and limits to provide adequate protection and Licensee shall promptly comply with any such requirement. VID’s requirements shall not be unreasonable, but shall be adequate in the sole opinion of VID to protect against the kind and extent of risks which may exist at the time a change of insurance is required, or thereafter.

2.4.5 Deductibles. Any and all deductibles must be declared and approved by VID prior to execution of this License.

2.4.6 License Contingent Upon Coverage. Notwithstanding any other provision of this License, this License shall be null and void at all times when the above-referenced original policies of insurance or Certificate of Insurance or Renewal Certificates or Endorsements are not on file with VID.

## 2.5 Indemnification

2.5.1 VID not Liable. VID shall not be liable at any time for any loss, damage or injury whatsoever to the person or property of any person or entity whatsoever, including but not limited to any employee, agent, contractor or volunteer of Licensee, resulting from or arising out of any act or omission of Licensee or of any person or entity holding under Licensee, or the occupancy or use of the Premises or any part thereof by or under Licensee, or any act or omission in the exercise of any right or the performance of any obligation under this License, or directly or indirectly from any state or condition of the Premises, or any part thereof.

2.5.2 Indemnification. Irrespective of any insurance carried by Licensee for the benefit of VID, and notwithstanding any other provision of this License to the contrary, Licensee shall indemnify and hold VID, its officers, directors, employees, representatives and volunteers harmless from and against any and all actions, claims, demands, judgments, attorneys' fees, costs, damages to persons or property, penalties, obligations, expenses or liabilities of any kind that may be asserted or claimed by any person or entity (including, but not limited to, any employee, agent, contractor or volunteer of Licensee) in any way arising out of or in connection with this License, the operations carried on by Licensee on the Premises or any lands to which Licensee has access hereunder, or the occupation or use of the Premises by Licensee or any person or entity holding under Licensee (collectively, "Claims"), whether or not there is concurrent active or passive negligence on the part of VID, and/or acts for which the VID would be held strictly liable, but excluding the sole active negligence and willful misconduct of VID. In connection therewith:

2.5.2.1 Licensee shall defend and hold VID, its officers, directors, employees, agents, representatives and volunteers, harmless from any and all Claims, whether caused in whole or in part by VID's active or passive negligence, and/or acts for which VID would be held strictly liable, but excluding any Claim that results from the sole active negligence or willful misconduct of VID, its officers, employees, agents, or representatives; and Licensee shall pay all expenses and costs, including attorneys' fees, incurred in connection therewith.

2.5.2.2 Licensee shall promptly pay any judgment rendered against Licensee or VID covering any Claim, and hold and save VID harmless therefrom, whether such Claim was caused in whole or in part by VID's active or passive negligence, and/or acts for which VID would be held strictly liable, but excluding the sole active negligence and willful misconduct of VID.

2.5.2.3 In the event VID is made a party to any action or proceeding filed or prosecuted for or arising out of or in connection with any Claim, Licensee shall pay to VID any and all costs and expenses incurred by VID in any such action or proceeding, together with reasonable attorneys' fees.

2.5.2.4 All of the indemnity obligations of Licensee under this Paragraph 2.5.2, or as otherwise set forth in this License, shall survive the expiration or earlier termination of this License.

## 2.6 Legal Relations and Responsibilities

2.6.1 Nature of Relationship. VID and Licensee understand and agree that the only relationship between them created by this License is that of Licensor and Licensee, and that this License does not create, and shall not be construed to create, any agency, partnership, joint venture, landlord-tenant or other relationship between VID and Licensee.

2.6.2 Compliance with Laws. Licensee shall keep itself fully informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect the activities of Licensee under this License, or the possession or use of the Premises by Licensee, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Licensee shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, VID, its officers, directors, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by Licensee or any person or entity holding under Licensee.

2.6.3 Assignment. The License granted hereby is personal to Licensee and any assignment of said License by Licensee, voluntarily or by operation of law, shall automatically terminate this License, unless Licensee has obtained the prior written consent of VID, which may be withheld, in its sole and absolute discretion, for any reason or no reason at all.

2.6.4 Acknowledgment of VID's Title. Licensee hereby acknowledges the title of VID in and to the Premises, including the real property fixtures and improvements existing or erected thereon, and Licensee hereby covenants and promises never to assail, contest or resist VID's title to the Premises.

2.6.5 Liens. Licensee shall maintain the Premises free from and clear of any claims, obligations, liabilities, liens, encumbrances and charges, including but not limited to any claims, liens or charges arising out of or in connection with the furnishing of materials or the performance of labor on the Premises. Licensee further shall protect and indemnify VID and the Premises from and hold them, and each of them, harmless against any and all such claims, obligations, liabilities, liens, encumbrances and charges.

2.6.6 Possessory Interest Taxation. A possessory interest subject to property taxation may be created by this License. It is understood and agreed that if such a possessory interest is created, Licensee shall be responsible for the payment of all property taxes levied on such interest, and that VID shall have no responsibility therefor.

### 2.6.7 VID's Reservations

2.6.7.1 VID hereby reserves the right to grant easements and rights-of-way for pole or tower lines for transmission of electricity, and easements, leases and

rights-of-way for telephone, telegraph, telecommunication facilities, gas, water, sewer and oil lines, for roads and highways, and for other similar uses over and across the Premises at any location or locations within the Premises. In the event Licensee determines that the granting or exercise of any such easement, lease, or right-of-way significantly interferes with Licensee's possession or use of the Premises, Licensee's only remedy shall be to terminate this License upon thirty (30) days written notice to VID. Licensee shall not interfere with any easements or rights-of-way pertaining to or affecting the Premises.

2.6.7.2 VID hereby reserves the right to sell, transfer, lease or otherwise dispose of any portion of the Premises at any time. In the event of such sale, transfer, lease or disposition, and notwithstanding any other provision of this License, this License shall, upon the close of escrow or the conveyance of title, terminate as to the portions of the Premises sold, transferred, leased or disposed of, and Licensee shall release the same from the terms of this License and from any encumbrance which results from this License.

2.6.7.3 VID reserves the right unto itself to perform any and all work involved in protecting, replenishing and/or conserving the water supply of the watershed of Lake Henshaw, and any other work necessary to the functions or purposes of VID, upon any portion or all of the Premises at any time. Such work may be performed without incurring any liability of any nature whatsoever to Licensee, and Licensee hereby releases VID from, and covenants not to sue VID for, any such liability. VID further reserves unto itself the rights of ingress and egress over all or any portion of the Premises.

2.6.7.4 Except as provided herein, this License is not exclusive. The District reserves the right to enter into and maintain other agreements, licenses, leases, and conveyances with other parties on the Premises for uses that do not materially interfere with the operations of the Licensee. By execution of this License, Licensee agrees to cooperate with the District and the parties to the District's business relationships.

2.6.8 Waiver of Claims. As a material part of the consideration to VID under the License, Licensee hereby waives any and all claims that it may have against VID during the term of this License, or any extension or renewal thereof, for any damage to goods, wares and merchandise upon or about the Premises, and for any injury to Licensee, its employees, agents, invitees, or to third parties in or about the Premises, from any cause arising at any time.

2.6.9 Surrender of Possession. At the expiration or termination of this License, whether with or without cause, Licensee shall promptly quit and surrender the Premises in a good state of repair.

2.6.10 Disposition of Abandoned Property. If Licensee abandons or quits the Premises or is dispossessed thereof by process of law or otherwise, title to any personal property left on the Premises for fifteen (15) or more days after such event shall at VID's opinion, be deemed to have been abandoned and transferred to VID. VID shall have the right to

remove and dispose of any and all such property without liability therefor to Licensee or to any person or entity claiming under Licensee, and VID shall have no duty to account for such property. Licensee agrees to reimburse VID for any and all costs associated with VID transferring or disposing of Licensee's personal property pursuant to this Section.

2.6.11 Premises "As-Is". Licensee acknowledges that the Premises are being provided to Licensee on an "as-is" basis, and Licensee takes and occupies the Premises without reliance upon any representation by VID, or any of its officers, employees, agents or representatives, or any other person, concerning the Premises, their fitness for Licensee's intended use or any other particular purpose of use, their income-producing history, potential or capabilities, their value, or any other promise, representation or inducement not expressly set forth in this License.

2.6.12 No Representation or Warranty Concerning Premises. Licensee acknowledges that neither VID, nor any of its officers, employees, agents or representatives, has made any written or oral representation, promise, or warranty, expressed or implied, concerning the Premises, their fitness for Licensee's intended use or any other purpose or use, their income producing history, potential or capabilities, their value, or any other matter not expressly set forth in this License.

2.6.13 Disputes. In the event that any action is commenced by a party to this License against the other to enforce its rights or obligations arising from this License or seeking to interpret this License, the prevailing party in such action, in addition to any other relief and recovery ordered by the court, shall be entitled to recover all statutory costs, plus reasonable attorneys' fees. Should VID be named in any suit brought by any third party against Licensee in connection with or in any way arising out of Licensee's occupancy or use of the Premises under this License, Licensee shall pay to VID its costs and expenses incurred in such suit, including reasonable attorneys' fees.

2.6.14 Security Measures. Licensee acknowledges that the Premises are licensed to and accepted by Licensee in an "as-is" condition, and that the License Payments and other sums payable from Licensee to VID hereunder do not include the cost of security guard or any other security services or measures. Licensee further acknowledges that VID makes no representation or warranty, express or implied, regarding the security of the Premises or the need for or propriety of any security measures at the Premises; and Licensee further acknowledges that VID shall have no obligation whatsoever to provide guard service or any other security measures. Licensee expressly assumes all responsibility for the protection and security of the Premises, Licensee, its agents, employees, invitees and property within the Premises from any and all acts of any third party.

2.6.15 No Obligation to Third Parties. Execution and issuance of this License shall not be deemed to confer any rights upon, directly, indirectly or by way of subrogation, nor obligate either of the parties hereto to, any person or entity other than VID and Licensee.

2.6.16 Waiver. Any waiver by any party of a breach of any provision of this License shall not be deemed a continuing waiver or a waiver of any subsequent breach whether of the same or of another provision hereof.

2.6.17 VID's Liability on Termination. Licensee hereby waives all damages or claims for damage that may be caused by any action of VID in terminating this License (either with or without cause), or taking possession of the Premises as provided in this License or at law, and Licensee waives all claims for damages to or loss of such property of Licensee as may be in or upon the Premises upon the termination of this License.

## 2.7 Maintenance and Repair of Premises

2.7.1 Licensee's Obligation to Maintain Premises. Licensee shall at all times during the term of this License, and any extension or renewal thereof, at its sole cost and expense, remove all trash and debris from the Premises. Licensee shall also keep and maintain in good condition and in substantial repair (all to the satisfaction of VID in its sole discretion), the Premises and all appurtenances and every part thereof, including improvements of any kind erected, installed or made on or within the Premises. Licensee shall at all times in the maintenance and use of the Premises and the buildings, structures, facilities, improvements and equipment thereon, comply with all laws, ordinances and regulations pertaining thereto, and all conditions and restrictions set forth herein. Licensee expressly agrees to maintain the Premises in a safe, clean, wholesome, and sanitary condition and free of trash and debris, to the complete satisfaction of VID and in compliance with all applicable laws.

2.7.2 Licensee's Default of its Maintenance Duties. In the event that Licensee fails, neglects or refuses to remove trash or debris deposited by Licensee or its invitees on the Premises or to maintain or make repairs or replacements as required by this License, VID shall notify Licensee in writing of such failure or refusal. Should Licensee fail or refuse to correct such default within ten (10) days of receipt of such written notice from VID, VID may, but shall not be required to, itself or by contract, undertake the necessary maintenance, repair or replacements; and the cost thereof, including but not limited to the cost of labor, materials and overhead, plus an administrative fee in the amount of twenty-five percent (25%) of the sum of such costs, shall be paid by Licensee to VID within ten (10) days of Licensee's receipt of a statement of such costs from VID. Any such maintenance, repair or replacement by or on behalf of VID shall not be deemed to be a waiver of Licensee's default under this License, and shall not in any way impair, prevent or restrict VID from exercising any of its rights or remedies set forth in this License or otherwise provided at law.

## 2.8 Miscellaneous

2.8.1 Notices. Any notice, payment or instrument required or permitted to be given or delivered by this License may be given or delivered by personal delivery or by depositing the same in any United States mail depository, first class postage prepaid, and addressed as follows:

If to VID:

VISTA IRRIGATION DISTRICT  
1391 Engineer Street  
Vista, CA 92081-8836  
Attn: General Manager

If to Licensee:

To such name and address set forth for Licensee in Part I of this License,

or such other person or address as either party may direct in writing to the other; provided, however, that such new or different person or address shall not become effective until acknowledged in writing by the party to who directed. Except where service is by personal delivery or by registered or certified mail, return receipt requested, service of any instrument or writing shall be deemed completed forty-eight (48) hours after deposit in a United States mail depository.

2.8.2 Warranty of Authority. Each officer of VID and Licensee affixing his or her signature to this License warrants and represents by such signature that he or she has the full legal authority to bind his or her respective party to all of the terms, conditions and provisions of this License, that his or her respective party has the full legal right, power, capacity and authority to enter into this License and perform all of its provisions and obligations, and that no other approvals or consents are necessary in connection therewith.

2.8.3 Headings. The titles and headings of Sections and Paragraphs of this License, as herein set forth, have been inserted for the sake of convenience only, and are not to be taken, deemed or construed to be any part of the terms, covenants or conditions of this License, or to control, limit or modify any of the terms, covenants or conditions hereof.

2.8.4 Time of Essence. Time is of the essence of this License. Failure to comply with any requirement, including but not limited to any time requirement, of this License shall constitute a material breach of this License.

2.8.5 Construction and Amendment. This License shall be construed, interpreted, governed and enforced in all respects according to the laws of the State of California and as if drafted by both VID and Licensee. No amendment, change or modification of this document shall be valid unless in writing, stating that it amends, changes or modifies this License, and signed by all of the parties hereto.

2.8.6 Successors. Subject to the provisions of Paragraph 2.6.3 above, this License, and all of the terms, conditions and provisions herein, shall inure to the benefit of, and be binding upon, VID, Licensee, and their respective successors and assigns.

2.8.7 Re-Entry. No entry or re-entry into the Premises by VID shall be construed as an election to terminate this License, unless prior thereto or concurrently therewith written notice of intent to terminate is given by VID to Licensee. VID's entry into possession of the Premises without having elected to terminate shall not prevent VID from making such an election and giving Licensee notice thereof.

2.8.8 Partial Invalidity. If any term, covenant, condition or provision of this License is held by a court of competent jurisdiction to be invalid, void, illegal, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way affect, impair, or invalidate any other term, covenant, condition or provision contained in this License.

2.8.9 Further Assurances. Each of the parties hereto shall execute and deliver any and all additional papers, documents and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties hereto.

2.8.10 Precedence. In the event of any conflict between Parts of this License, Part I shall prevail over Parts II, III and IV, and Part III shall prevail over Part II.

**[END GENERAL LICENSE PROVISIONS]**

## PART III

### SPECIAL LICENSE PROVISIONS

3.1 Conditions of Use. The following are added to Paragraph 2.3.1 of this License, as additional conditions to the use of the Premises:

2.3.1.5 Licensee shall coordinate all activity on the Premises with VID's Water Resources Department.

2.3.1.6 No waste shall be permitted nor committed by Licensee and Licensee shall not overgraze or overstock the Premises. Licensee shall conduct all operations contemplated under this Agreement in accordance with good and accepted agronomic and environmental practices. Licensee shall comply with all written directives of the VID's Representative.

VID Representative may:

- a.) Determine the carrying capacity of the Premises from time to time and decide if cattle must be moved to other pastures or removed from the Premises to prevent overgrazing.
- b.) Approve the amount of supplemental feeding of animals upon the Premises proposed by Licensee when the carrying capacity of the Premises is exceeded, or, in the alternative, direct Licensee to remove from the Premises animals which might be in excess of the then existing carrying capacity of the Premises.
- c.) Identify practices that shall be amended or instituted in order to safeguard certain environmental or cultural resources on the Property.

2.3.1.7 Licensee shall not build any structures of any character upon the Premises.

3.2 Utilities and Services. The following is added to Paragraph 2.3.2 of this License:

2.3.2.1 Stock Water. VID shall provide sufficient water for Licensee's cattle, at no expense to Licensee, from existing wells and existing wellfield transmission facilities located on the premises. VID has installed storage tanks on the Warner Ranch as part of a stock water distribution system to be used in conjunction with cattle drinkers. VID shall maintain tanks it has installed as long as they provide beneficial use to the Licensee. When water is supplied from a pumped well, VID shall also maintain all lines into these tanks. When spring fed water is supplied, the Licensee shall maintain both the spring and all lines into the tanks. The locations of existing VID supplied tanks are as follows:

- a. Near Well #90 and downstream at the San Jose Corral drinkers;
- b. Near Well #75 and the "Big Corral";
- c. Near Well #13;
- d. Near Grammer Canyon;

- e. Near Well #80;
- f. KRC Tank near Highway 76 in East Lake Pasture; and
- g. Near Well #82 and the windmill.

Licensee, at no expense to VID, shall maintain all other lines from existing wells, existing wellfield transmission facilities, and stock water tanks to its drinkers. Licensee shall, at no expense to VID, maintain approximately thirty-six (36) developed stock water springs located on the leased premises. VID has no obligation to provide water under pressure for supplying stock water to Licensee. Licensee may utilize VID's pressures which the VID maintains to operate its water production system. Should Licensee need stock water at a pressure greater than those maintained by VID in its normal operation of its water production system, Licensee shall install, operate and pay for any additional pumps or equipment and all energy costs.

2.3.2.2 Water and Septic at Ranch House. VID shall maintain the water and septic facilities that are used in common for the historic Warner-Carrillo Ranch House and the house occupied by the Licensee, including the well, water tanks, pipelines, and septic system that serve both facilities. VID shall pay for the power used to pump water from the well.

3.3 Licensee's Obligation to Maintain Premises. The following is added to Paragraph 2.7.1 of this License:

2.7.1.1 Licensee shall, at no expense to VID, maintain in good repair all fences and corrals on the Premises, including all fences along highways, roads and all Warner Ranch exterior or perimeter fences. Should Licensee's operations result in cattle grazing along the perimeter of Warner Ranch where fences do not exist, Licensee shall, at no expense to VID, construct fences so as to confine its cattle to the Premises. Except as otherwise provided herein, Licensee shall keep and maintain all improvements on the Premises, including cattle-handling facilities, cattle-guards, barns, dwellings and other appurtenances, in good condition and repair. Licensee shall be responsible for all maintenance and repairs needed to the house and barn occupied by Licensee as part the cattle grazing operations.

2.7.1.2 Licensee acknowledges that it has examined and is fully familiar with the Premises and all improvements and accepts them in their present condition. Licensee will save and hold harmless VID from any and all claims for labor and materials (except where otherwise stated herein) in connection with the improvements, repair, or alterations made to or upon the Premises by Licensee.

2.7.1.3 Pest Control. Lessee shall carry on all of its operations hereunder in accordance with good husbandry and sound agronomic and environmental practices, including, but not limited to, pest eradication and control, but only to the extent reasonably necessitated by use of the Premises permitted by this License and as required by VID's Representative . Lessee shall, in all its operations under this License and at its expense, comply with all applicable laws, rules and regulations, including, but not limited to the California Occupational Safety and Health Act of 1973, as amended. Any chemicals, sprays, or

materials used for any purpose must be approved by the VID's Representative for their compatibility with the District's water system operation.

3.4 Miscellaneous. The following is added to Paragraph 2.8. of this License:

2.8.11 Reports and Information. Upon request, Licensee shall furnish VID copies of all brand inspection reports covering all cattle shipped to or removed from the Premises. Licensee shall further afford VID full and complete access to books and records of Licensee at all reasonable times, or, in lieu thereof, furnish on demand, a statement, certified by a certified public accountant, covering Licensee's operations, including all expenses incurred insofar as the same relate to Licensee's utilization of the Premises.

Initial:

\_\_\_\_\_  
Licensee

\_\_\_\_\_  
VID

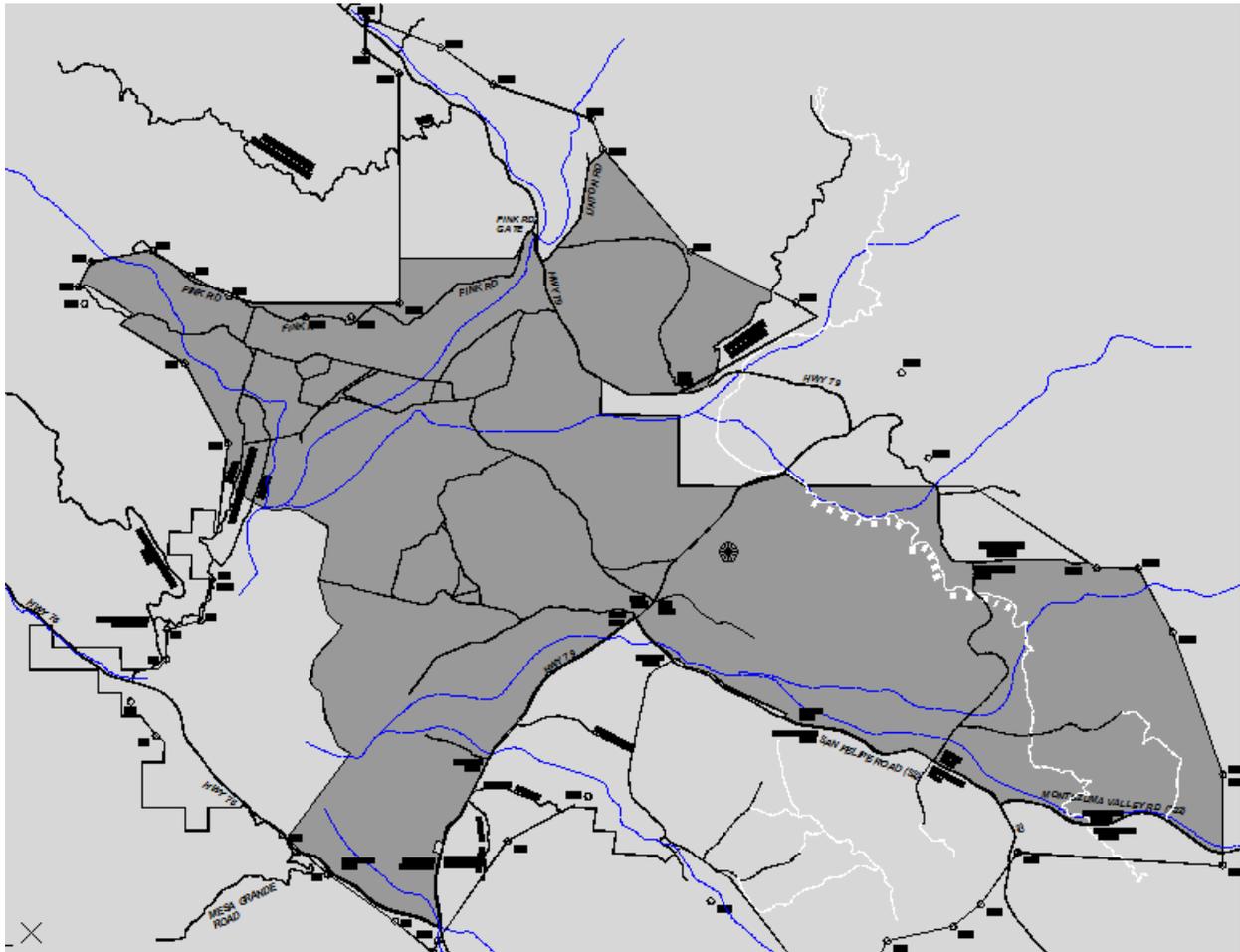
**[END SPECIAL LICENSE PROVISIONS]**

## PART IV

### Premises

The Premises shall generally consist of portions of the Rancho San Jose del Valle and Rancho Valle de San Jose on the Warner Ranch, *except* as follows: 1) pastures south of Highway 76; 2) pastures east of Highway 79 and south of San Felipe Road (County Road S-2); 3) pastures south of Montezuma Valley Road (County Road S-22); pastures north and east of Camino San Ignacio (the “Coyote Pasture”); 4) land north and east of Highway 79 and west of Linton Road (the Navy lease area). Portions of the “Lake Pasture” may be grazed by the Licensee on a seasonal basis subject to: 1) the Licensee shall furnish and remove temporary fencing to prevent cattle from having direct access to the waters of Lake Henshaw; and 2) the Licensee shall coordinate such use with VID staff.

The Premises are generally indicated by the shaded areas of the map shown below, and consist of about 26,400 acres, more or less.



# GRAZING LICENSE AGREEMENT

This License Agreement (“License”) is made and entered into as of \_\_\_\_\_, 2017 by and between the **VISTA IRRIGATION DISTRICT**, a political subdivision of the State of California organized under the Irrigation District Law, California Water Code Section 20500, et seq. (“VID”), and **MENDENHALL CATTLE COMPANY, INC.**, a California Corporation as Licensee (“Licensee”).

## PART I

### FUNDAMENTAL LICENSE TERMS

**1.1 License.** VID hereby issues to Licensee a non-exclusive License to enter upon the following real property owned by VID, for the purpose or activity specified in Paragraph 1.1.2:

**1.1.1 Licensed Property.** Approximately 8,100 acres, located on the Warner Ranch, as described attached hereto as Part IV and incorporated herein by this reference (“Premises”).

**1.1.2. Use of Premises.** For and during the term of this License, Licensee shall use the Premises solely and exclusively for the pasturage and grazing of cattle.

**1.2 Term.** This License shall commence on January 1, 2018 (“Commencement Date”) and shall continue from year to year unless either party gives notification to modify or terminate the License in its entirety pursuant to Paragraph 2.8.

### **1.3 Termination.**

**1.3.1** This License may be terminated by either party with a 180 day written notice of intent to terminate the License.

**1.3.2** The Licensee may elect to terminate this License with 90 days written notice if, through no fault of its own, one-third or more of the Premises have been burned or otherwise made unusable for the purpose intended.

**1.3.3** Licensee shall be in material default under the terms of this Agreement if Licensee fails to pay any amount due under this Agreement or fails to perform or observe any term, covenant, or undertaking in this Agreement to be performed or observed by it and such default continues for 30 calendar days after such performance is due. If an event of default occurs under this Agreement, VID may, at its option, terminate this Agreement at any time thereafter by giving notice to the Licensee at least five business days before the termination is to be effective. If the Agreement is terminated under this provision, Licensee shall remove all its personal property from the Property within 20 calendar days. If such removal is not completed within the 20 days, VID may, at its option, take such measures as VID, in its sole discretion, deems necessary to accomplish such complete removal and the expenses therefor will be paid by Licensee.

## **1.4 License Consideration.**

**1.4.1 Base License Fee.** Licensee shall pay to the VID an initial annual fee (the “Base License Fee”) for the use of the Premises \$9,360 per year in 2018, payable in advance in monthly installments of \$780 for each and every month of 2018, and indexed to the Consumer Price Index for all subsequent years as described below. (\$780 is equivalent to 60 AUM @ \$13.00 per month.) "AUM" shall mean the forage consumed by one mature animal unit (weighing 700 pounds or more) in one month, or “Animal Unit Month”. Any weaned animal weighing less than 700 pounds shall be considered one-half AUM. Commonly, a weaned calf shall be deemed one-half AUM until it reaches nine months of age, at which time and thereafter it shall be deemed a full AUM. A cow and her unweaned calves together shall be considered one AUM. Beginning in 2019 and for every subsequent year, the yearly Base License Fee (and supplemental license fee, as described below) shall be adjusted as indexed for inflation. The index shall be taken as the first half semiannual average (January through June) of the Consumer Price Index, All Urban Consumers, San Diego published by the United States Department of Labor, Bureau of Labor Statistics (“Index”). For the first year, the value of the Index is 281.561; subsequent base and supplemental license fees shall be adjusted by the percentage change in the value of the Index. In the event that the United States ceases to publish or maintain the Index, upon written notice to Licensee, VID shall use a similar index published by the United States or, if none is published by the United States, a similar index published by State of California or another governmental entity.

**1.4.2 Supplemental License Fee.** At the end of each license year, the total AUM count for each of the previous 12 months shall be aggregated. If the total thus derived exceeds 720 (12 months x 60 AUM), a supplemental license fee of \$13.00 per AUM per month (in 2018) for each AUM-month over 720 during the preceding 12 months shall be paid. Licensee shall furnish VID a written report of the AUM count for each month which shall accompany the Base License Fee payment. Beginning in 2019, this supplemental license fee shall be adjusted for inflation as described in Paragraph 1.4.1.

**1.5 Notices and Payments.** All payments, notices and other writings required to be delivered under this License to either party shall be delivered in accordance with the provisions of Part II (“General Provisions”), to VID at the address set forth in Part II, and to Licensee at the address set forth in this Part I.

**1.6 Attachments.** This License incorporates by reference the following Attachments to this License:

Part I:	Fundamental License Terms
Part II:	General License Provisions
Part III:	Special License Provisions
Part IV:	Premises

**1.7 Integration.** This License represents the entire understanding of VID and Licensee as to the License and all other matters contained herein. No prior oral or written understanding shall be of any force or effect with regard to those matters covered by this License. This License



## **PART II**

### **GENERAL LICENSE PROVISIONS**

#### **2.1 Payment of License Fee**

2.1.1 **Timing of Payment.** The payments to VID shall be made on or before the fifteenth day of each calendar month, and any payment or portion thereof made after that date shall be considered late. The Licensee shall pay to VID a late charge as set forth in Paragraph 2.2.1.

2.1.2 **Transmittal of Payments.** Licensee shall make all License Fee payments, and pay all other sums due under this License, in lawful money of the United States, by check payable to "VISTA IRRIGATION DISTRICT," and shall personally deliver or mail all payments without any notice or demand to VID at the address set forth in Paragraph 2.8.1 below. Licensee assumes all risk of loss or late payment if any payment is made by mail.

2.1.3 **No Offsets.** All License Fees and other sums due under this License shall be paid without offset or deduction, and shall be deemed payments on account. Neither the payment by Licensee nor the acceptance by VID of any License Fee or other sum in an amount which is less than the amount due and payable pursuant to this License, nor the issuance of a monthly statement showing as due and payable an amount less than is properly due and payable pursuant to the terms of this License, shall constitute an agreement by VID modifying this License or a waiver of VID's right to receive all sums provided for in this License. No endorsement or statement on any check or any letter accompanying any check or payment shall be deemed an accord or satisfaction, and VID shall accept all checks and payments from Licensee without prejudice to VID's right to recover the balance of the amount due or to pursue any other remedy in this License or otherwise provided by law.

#### **2.2 Charges for Payment of License Fee**

2.2.1 If any payment of any License Fee or any other sum due VID is not received by VID on or before the fifteenth day of each calendar month, Licensee shall be deemed delinquent in its License Fee payment and a late charge of one and one-half percent (1.5%) of the delinquent amount shall become immediately due and payable to VID. An additional charge of one and one-half percent (1.5%) of such delinquent License Fee payment (excluding late charges) shall be added for each additional calendar month (or portion thereof) that the delinquent sum remains unpaid.

2.2.2 Licensee and VID hereby acknowledge and agree that such late charges do not represent and shall not be deemed to be an interest payment, but that such late charges represent a fair and reasonable estimate of the costs and expenses that VID will incur by reason of Licensee's late payment.

2.2.3 Acceptance by VID of any delinquent License Fee payment or late charge shall in no way constitute a waiver of Licensee's default with respect to such overdue and delinquent payment, or in any way impair, prevent or restrict VID from exercising any of its rights or remedies set forth in this License or otherwise provided at law.

## 2.3 Use of Premises

2.3.1 Conditions of Use. For and during the term of this License, Licensee's use of the Premises shall be subject to the following conditions, covenants and restrictions:

2.3.1.1 Except as provided in this License, the Premises shall be used only for the purposes specified in Paragraph 1.1.2 above, and the Premises shall not be used for any other use or purpose whatsoever, without the prior written consent of VID.

2.3.1.2 Licensee shall not cause, permit or suffer any "hazardous material," "hazardous waste" or "hazardous chemicals" as those terms are used in CERCLA (42 U.S.C. § 9601(14)) or SARA (42 U.S.C. § 110211(e)) or any similar Federal, State, or local law, statute, ordinance, regulation or order, or otherwise determined by VID, to be brought upon, left, used or abandoned on the Premises.

2.3.1.3 Licensee shall not maintain, commit or permit the maintenance or commission of any waste or any nuisance (as defined in California Civil Code section 3479) on the Premises, and Licensee shall not use or permit the use of the Premises for any unlawful purpose.

2.3.1.4 VID or its authorized representative shall have the right at all reasonable times to enter upon the Premises and inspect the general condition of the Premises to determine if Licensee is complying with the terms, conditions, requirements and provisions of this License.

2.3.2 Utilities and Services. Licensee shall be solely responsible for obtaining all utility service and for the payment of all utility charges, including but not limited to water and power, supplied to the Premises.

2.3.3 Permits and Approvals. Licensee shall obtain any and all governmental permits, approvals, licenses or other authorizations which may be required in connection with the use of the Premises as set forth in this License. No approval or consent given under this License by VID shall affect or limit Licensee's obligations hereunder, nor shall any approvals or consents given by VID, in its capacity as a party to this License, be deemed to be approval as to compliance or conformance with any applicable governmental codes, laws, orders, rules or regulations.

2.4 Insurance. Without limiting Licensee's indemnification obligations, Licensee shall not enter or occupy the Premises until Licensee has obtained all of the insurance required herein from a company or companies acceptable to VID, and Licensee shall maintain all such insurance in full force and effect at all times during the term of this License and any extension or renewal thereof. Insurance shall be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by VID.

2.4.1 Licensee shall take out and maintain the following insurance:

2.4.1.1 Workers' Compensation and Employer's Liability Insurance. Licensee shall cover or insure under the applicable laws relating to workers' compensation insurance all of its employees working on or about the Premises, in accordance

with the “Workers’ Compensation and Insurance Act,” Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Licensee shall provide worker’s compensation insurance and employer’s liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence, One Million Dollars (\$1,000,000) disease policy limit, and One Million Dollars (\$1,000,000) disease each employee. Such policy of workers compensation insurance shall contain the following separate endorsements:

(a) “Insurer waives all rights of subrogation against the Vista Irrigation District, its officers, directors, employees, representatives and volunteers.”

(b) “This insurance policy shall not be suspended, voided, reduced in coverage or in limits, cancelled, limited, non-renewed or materially changed for any reason by the insurer until thirty (30) days after receipt by the Vista Irrigation District of a written notice of such cancellation, limitation or reduction of coverage.”

2.4.1.2 Commercial General Liability Insurance providing coverage in the following minimum limits:

(a) Combined single limit of One Million Dollars (\$1,000,000) per occurrence for Bodily Injury, Personal Injury or Death and Property.

(b) Damage Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage (occurrence Form CG 0001).

(c) If Commercial General Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503 or ISO CG 2504, or insurer’s equivalent endorsement provided to VID), or the general aggregate limit shall be twice the required occurrence limit.

2.4.1.3 Comprehensive Automobile Liability Insurance, including owned, non-owned, leased, hired, and borrowed automobiles and similar vehicles, providing the following minimum limits:

(a) Combined single limit of One Million Dollars (\$1,000,000) per occurrence for Bodily Injury or Death and Property Damage.

(b) Coverage shall be at least as broad as Insurance Services Office (ISO) Business and Auto Coverage (Form CA 0001) covering any auto.

2.4.2 Endorsements. The policies of liability insurance provided for in Paragraphs 2.4.1.2 and 2.4.1.3 shall specify that this specific License is insured and that coverage for injury to participants resulting from Licensee's activities is not excluded, and shall be in a form satisfactory to VID and contain the following separate endorsements:

(a) “The Vista Irrigation District, its officers, directors, employees, representatives and volunteers, are declared to be additional insureds on all of the above policies with respects to the operations and activities of the named insured

at or from the premises of the Vista Irrigation District. The coverage shall contain no special limitations on the scope of protection afforded to the Vista Irrigation District, its officers, directors, employees, representatives and volunteers.”

(b) “This insurance policy shall not be suspended, voided, reduced in coverage or in limits, canceled, limited, non-renewed, or materially changed for any reason until thirty (30) days after receipt by the Vista Irrigation District of a written notice of such cancellation, limitation or reduction of coverage.”

(c) “This insurance policy is primary insurance and no insurance held or owned by the designated additional insureds shall be called upon or looked to cover a loss under said policy; the Vista Irrigation District shall not be liable for the payment of premiums or assessments on this policy.”

(d) “Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Vista Irrigation District, its officers, directors, employees, representatives, or volunteers.”

(e) “This insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.”

2.4.3 Evidence of Coverage. Licensee shall at the time of the execution of the License present to VID the original policies of insurance required by this Paragraph 2.4 or a certificate of the insurance, with separate endorsements (Insurance Services Office Form CG 2026, or equivalent), showing the issuance of such insurance and the additional insured and other provisions and endorsements required herein and copies of all endorsements signed by the insurer’s representative. All policies shall contain the Licensee’s name and location of the Premises on the certificate. At least thirty (30) days prior to the expiration of any such policy, a signed complete certificate of insurance, with all endorsements provided herein, showing that such insurance coverage has been renewed or extended, shall be filed with VID. Licensee’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

2.4.4 Review of Coverage. VID shall have the right at any time to review the coverage, form, and limits of insurance required under this License. If, in the sole and absolute discretion of VID, the insurance provisions in this License do not provide adequate protection for VID, VID shall have the right to require Licensee to obtain insurance sufficient in coverage, form and limits to provide adequate protection and Licensee shall promptly comply with any such requirement. VID’s requirements shall not be unreasonable, but shall be adequate in the sole opinion of VID to protect against the kind and extent of risks which may exist at the time a change of insurance is required, or thereafter.

2.4.5 Deductibles. Any and all deductibles must be declared and approved by VID prior to execution of this License.

2.4.6 License Contingent Upon Coverage. Notwithstanding any other provision of this License, this License shall be null and void at all times when the above-referenced original policies of insurance or Certificate of Insurance or Renewal Certificates or Endorsements are not on file with VID.

## 2.5 Indemnification

2.5.1 VID not Liable. VID shall not be liable at any time for any loss, damage or injury whatsoever to the person or property of any person or entity whatsoever, including but not limited to any employee, agent, contractor or volunteer of Licensee, resulting from or arising out of any act or omission of Licensee or of any person or entity holding under Licensee, or the occupancy or use of the Premises or any part thereof by or under Licensee, or any act or omission in the exercise of any right or the performance of any obligation under this License, or directly or indirectly from any state or condition of the Premises, or any part thereof.

2.5.2 Indemnification. Irrespective of any insurance carried by Licensee for the benefit of VID, and notwithstanding any other provision of this License to the contrary, Licensee shall indemnify and hold VID, its officers, directors, employees, representatives and volunteers harmless from and against any and all actions, claims, demands, judgments, attorneys' fees, costs, damages to persons or property, penalties, obligations, expenses or liabilities of any kind that may be asserted or claimed by any person or entity (including, but not limited to, any employee, agent, contractor or volunteer of Licensee) in any way arising out of or in connection with this License, the operations carried on by Licensee on the Premises or any lands to which Licensee has access hereunder, or the occupation or use of the Premises by Licensee or any person or entity holding under Licensee (collectively, "Claims"), whether or not there is concurrent active or passive negligence on the part of VID, and/or acts for which the VID would be held strictly liable, but excluding the sole active negligence and willful misconduct of VID. In connection therewith:

2.5.2.1 Licensee shall defend and hold VID, its officers, directors, employees, agents, representatives and volunteers, harmless from any and all Claims, whether caused in whole or in part by VID's active or passive negligence, and/or acts for which VID would be held strictly liable, but excluding any Claim that results from the sole active negligence or willful misconduct of VID, its officers, employees, agents, or representatives; and Licensee shall pay all expenses and costs, including attorneys' fees, incurred in connection therewith.

2.5.2.2 Licensee shall promptly pay any judgment rendered against Licensee or VID covering any Claim, and hold and save VID harmless therefrom, whether such Claim was caused in whole or in part by VID's active or passive negligence, and/or acts for which VID would be held strictly liable, but excluding the sole active negligence and willful misconduct of VID.

2.5.2.3 In the event VID is made a party to any action or proceeding filed or prosecuted for or arising out of or in connection with any Claim, Licensee shall pay to VID any and all costs and expenses incurred by VID in any such action or proceeding, together with reasonable attorneys' fees.

2.5.2.4 All of the indemnity obligations of Licensee under this Paragraph 2.5.2, or as otherwise set forth in this License, shall survive the expiration or earlier termination of this License.

## 2.6 Legal Relations and Responsibilities

2.6.1 Nature of Relationship. VID and Licensee understand and agree that the only relationship between them created by this License is that of Licensor and Licensee, and that this License does not create, and shall not be construed to create, any agency, partnership, joint venture, landlord-tenant or other relationship between VID and Licensee.

2.6.2 Compliance with Laws. Licensee shall keep itself fully informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect the activities of Licensee under this License, or the possession or use of the Premises by Licensee, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Licensee shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, VID, its officers, directors, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by Licensee or any person or entity holding under Licensee.

2.6.3 Assignment. The License granted hereby is personal to Licensee and any assignment of said License by Licensee, voluntarily or by operation of law, shall automatically terminate this License, unless Licensee has obtained the prior written consent of VID, which may be withheld, in its sole and absolute discretion, for any reason or no reason at all.

2.6.4 Acknowledgment of VID's Title. Licensee hereby acknowledges the title of VID in and to the Premises, including the real property fixtures and improvements existing or erected thereon, and Licensee hereby covenants and promises never to assail, contest or resist VID's title to the Premises.

2.6.5 Liens. Licensee shall maintain the Premises free from and clear of any claims, obligations, liabilities, liens, encumbrances and charges, including but not limited to any claims, liens or charges arising out of or in connection with the furnishing of materials or the performance of labor on the Premises. Licensee further shall protect and indemnify VID and the Premises from and hold them, and each of them, harmless against any and all such claims, obligations, liabilities, liens, encumbrances and charges.

2.6.6 Possessory Interest Taxation. A possessory interest subject to property taxation may be created by this License. It is understood and agreed that if such a possessory interest is created, Licensee shall be responsible for the payment of all property taxes levied on such interest, and that VID shall have no responsibility therefor.

### 2.6.7 VID's Reservations

2.6.7.1 VID hereby reserves the right to grant easements and rights-of-way for pole or tower lines for transmission of electricity, and easements, leases and

rights-of-way for telephone, telegraph, telecommunication facilities, gas, water, sewer and oil lines, for roads and highways, and for other similar uses over and across the Premises at any location or locations within the Premises. In the event Licensee determines that the granting or exercise of any such easement, lease, or right-of-way significantly interferes with Licensee's possession or use of the Premises, Licensee's only remedy shall be to terminate this License upon thirty (30) days written notice to VID. Licensee shall not interfere with any easements or rights-of-way pertaining to or affecting the Premises.

2.6.7.2 VID hereby reserves the right to sell, transfer, lease or otherwise dispose of any portion of the Premises at any time. In the event of such sale, transfer, lease or disposition, and notwithstanding any other provision of this License, this License shall, upon the close of escrow or the conveyance of title, terminate as to the portions of the Premises sold, transferred, leased or disposed of, and Licensee shall release the same from the terms of this License and from any encumbrance which results from this License.

2.6.7.3 VID reserves the right unto itself to perform any and all work involved in protecting, replenishing and/or conserving the water supply of the watershed of Lake Henshaw, and any other work necessary to the functions or purposes of VID, upon any portion or all of the Premises at any time. Such work may be performed without incurring any liability of any nature whatsoever to Licensee, and Licensee hereby releases VID from, and covenants not to sue VID for, any such liability. VID further reserves unto itself the rights of ingress and egress over all or any portion of the Premises.

2.6.7.4 Except as provided herein, this License is not exclusive. The District reserves the right to enter into and maintain other agreements, licenses, leases, and conveyances with other parties on the Premises for uses that do not materially interfere with the operations of the Licensee. By execution of this License, Licensee agrees to cooperate with the District and the parties to the District's business relationships.

2.6.8 Waiver of Claims. As a material part of the consideration to VID under the License, Licensee hereby waives any and all claims that it may have against VID during the term of this License, or any extension or renewal thereof, for any damage to goods, wares and merchandise upon or about the Premises, and for any injury to Licensee, its employees, agents, invitees, or to third parties in or about the Premises, from any cause arising at any time.

2.6.9 Surrender of Possession. At the expiration or termination of this License, whether with or without cause, Licensee shall promptly quit and surrender the Premises in a good state of repair.

2.6.10 Disposition of Abandoned Property. If Licensee abandons or quits the Premises or is dispossessed thereof by process of law or otherwise, title to any personal property left on the Premises for fifteen (15) or more days after such event shall at VID's opinion, be deemed to have been abandoned and transferred to VID. VID shall have the right to

remove and dispose of any and all such property without liability therefor to Licensee or to any person or entity claiming under Licensee, and VID shall have no duty to account for such property. Licensee agrees to reimburse VID for any and all costs associated with VID transferring or disposing of Licensee's personal property pursuant to this Section.

2.6.11 Premises "As-Is". Licensee acknowledges that the Premises are being provided to Licensee on an "as-is" basis, and Licensee takes and occupies the Premises without reliance upon any representation by VID, or any of its officers, employees, agents or representatives, or any other person, concerning the Premises, their fitness for Licensee's intended use or any other particular purpose of use, their income-producing history, potential or capabilities, their value, or any other promise, representation or inducement not expressly set forth in this License.

2.6.12 No Representation or Warranty Concerning Premises. Licensee acknowledges that neither VID, nor any of its officers, employees, agents or representatives, has made any written or oral representation, promise, or warranty, expressed or implied, concerning the Premises, their fitness for Licensee's intended use or any other purpose or use, their income producing history, potential or capabilities, their value, or any other matter not expressly set forth in this License.

2.6.13 Disputes. In the event that any action is commenced by a party to this License against the other to enforce its rights or obligations arising from this License or seeking to interpret this License, the prevailing party in such action, in addition to any other relief and recovery ordered by the court, shall be entitled to recover all statutory costs, plus reasonable attorneys' fees. Should VID be named in any suit brought by any third party against Licensee in connection with or in any way arising out of Licensee's occupancy or use of the Premises under this License, Licensee shall pay to VID its costs and expenses incurred in such suit, including reasonable attorneys' fees.

2.6.14 Security Measures. Licensee acknowledges that the Premises are licensed to and accepted by Licensee in an "as-is" condition, and that the License Payments and other sums payable from Licensee to VID hereunder do not include the cost of security guard or any other security services or measures. Licensee further acknowledges that VID makes no representation or warranty, express or implied, regarding the security of the Premises or the need for or propriety of any security measures at the Premises; and Licensee further acknowledges that VID shall have no obligation whatsoever to provide guard service or any other security measures. Licensee expressly assumes all responsibility for the protection and security of the Premises, Licensee, its agents, employees, invitees and property within the Premises from any and all acts of any third party.

2.6.15 No Obligation to Third Parties. Execution and issuance of this License shall not be deemed to confer any rights upon, directly, indirectly or by way of subrogation, nor obligate either of the parties hereto to, any person or entity other than VID and Licensee.

2.6.16 Waiver. Any waiver by any party of a breach of any provision of this License shall not be deemed a continuing waiver or a waiver of any subsequent breach whether of the same or of another provision hereof.

2.6.17 VID's Liability on Termination. Licensee hereby waives all damages or claims for damage that may be caused by any action of VID in terminating this License (either with or without cause), or taking possession of the Premises as provided in this License or at law, and Licensee waives all claims for damages to or loss of such property of Licensee as may be in or upon the Premises upon the termination of this License.

## 2.7 Maintenance and Repair of Premises

2.7.1 Licensee's Obligation to Maintain Premises. Licensee shall at all times during the term of this License, and any extension or renewal thereof, at its sole cost and expense, remove all trash and debris from the Premises. Licensee shall also keep and maintain in good condition and in substantial repair (all to the satisfaction of VID in its sole discretion), the Premises and all appurtenances and every part thereof, including improvements of any kind erected, installed or made on or within the Premises. Licensee shall at all times in the maintenance and use of the Premises and the buildings, structures, facilities, improvements and equipment thereon, comply with all laws, ordinances and regulations pertaining thereto, and all conditions and restrictions set forth herein. Licensee expressly agrees to maintain the Premises in a safe, clean, wholesome, and sanitary condition and free of trash and debris, to the complete satisfaction of VID and in compliance with all applicable laws.

2.7.2 Licensee's Default of its Maintenance Duties. In the event that Licensee fails, neglects or refuses to remove trash or debris deposited by Licensee or its invitees on the Premises or to maintain or make repairs or replacements as required by this License, VID shall notify Licensee in writing of such failure or refusal. Should Licensee fail or refuse to correct such default within ten (10) days of receipt of such written notice from VID, VID may, but shall not be required to, itself or by contract, undertake the necessary maintenance, repair or replacements; and the cost thereof, including but not limited to the cost of labor, materials and overhead, plus an administrative fee in the amount of twenty-five percent (25%) of the sum of such costs, shall be paid by Licensee to VID within ten (10) days of Licensee's receipt of a statement of such costs from VID. Any such maintenance, repair or replacement by or on behalf of VID shall not be deemed to be a waiver of Licensee's default under this License, and shall not in any way impair, prevent or restrict VID from exercising any of its rights or remedies set forth in this License or otherwise provided at law.

## 2.8 Miscellaneous

2.8.1 Notices. Any notice, payment or instrument required or permitted to be given or delivered by this License may be given or delivered by personal delivery or by depositing the same in any United States mail depository, first class postage prepaid, and addressed as follows:

If to VID:

VISTA IRRIGATION DISTRICT  
1391 Engineer Street  
Vista, CA 92081-8836  
Attn: General Manager

If to Licensee:

To such name and address set forth for Licensee in Part I of this License,

or such other person or address as either party may direct in writing to the other; provided, however, that such new or different person or address shall not become effective until acknowledged in writing by the party to who directed. Except where service is by personal delivery or by registered or certified mail, return receipt requested, service of any instrument or writing shall be deemed completed forty-eight (48) hours after deposit in a United States mail depository.

2.8.2 Warranty of Authority. Each officer of VID and Licensee affixing his or her signature to this License warrants and represents by such signature that he or she has the full legal authority to bind his or her respective party to all of the terms, conditions and provisions of this License, that his or her respective party has the full legal right, power, capacity and authority to enter into this License and perform all of its provisions and obligations, and that no other approvals or consents are necessary in connection therewith.

2.8.3 Headings. The titles and headings of Sections and Paragraphs of this License, as herein set forth, have been inserted for the sake of convenience only, and are not to be taken, deemed or construed to be any part of the terms, covenants or conditions of this License, or to control, limit or modify any of the terms, covenants or conditions hereof.

2.8.4 Time of Essence. Time is of the essence of this License. Failure to comply with any requirement, including but not limited to any time requirement, of this License shall constitute a material breach of this License.

2.8.5 Construction and Amendment. This License shall be construed, interpreted, governed and enforced in all respects according to the laws of the State of California and as if drafted by both VID and Licensee. No amendment, change or modification of this document shall be valid unless in writing, stating that it amends, changes or modifies this License, and signed by all of the parties hereto.

2.8.6 Successors. Subject to the provisions of Paragraph 2.6.3 above, this License, and all of the terms, conditions and provisions herein, shall inure to the benefit of, and be binding upon, VID, Licensee, and their respective successors and assigns.

2.8.7 Re-Entry. No entry or re-entry into the Premises by VID shall be construed as an election to terminate this License, unless prior thereto or concurrently therewith written notice of intent to terminate is given by VID to Licensee. VID's entry into possession of the Premises without having elected to terminate shall not prevent VID from making such an election and giving Licensee notice thereof.

2.8.8 Partial Invalidity. If any term, covenant, condition or provision of this License is held by a court of competent jurisdiction to be invalid, void, illegal, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way affect, impair, or invalidate any other term, covenant, condition or provision contained in this License.

2.8.9 Further Assurances. Each of the parties hereto shall execute and deliver any and all additional papers, documents and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties hereto.

2.8.10 Precedence. In the event of any conflict between Parts of this License, Part I shall prevail over Parts II, III and IV, and Part III shall prevail over Part II.

**[END GENERAL LICENSE PROVISIONS]**

## PART III

### SPECIAL LICENSE PROVISIONS

3.1 Additional Conditions of Use. The following are added to Paragraph 2.3.1 of this License, as additional conditions to the use of the Premises:

2.3.1.5 Licensee shall coordinate all activity on the Premises with VID's Water Resources Department.

2.3.1.6 No waste shall be permitted nor committed by Licensee and Licensee shall not overgraze or overstock the Premises. Licensee shall conduct all operations contemplated under this Agreement in accordance with good and accepted agronomic and environmental practices. Licensee shall comply with all written directives of the VID's Representative.

VID Representative may:

- a.) Determine the carrying capacity of the Premises from time to time and decide if cattle must be moved to other pastures or removed from the Premises to prevent overgrazing.
- b.) Approve the amount of supplemental feeding of animals upon the Premises proposed by Licensee when the carrying capacity of the Premises is exceeded, or, in the alternative, direct Licensee to remove from the Premises animals which might be in excess of the then existing carrying capacity of the Premises.
- c.) Identify practices that shall be amended or instituted in order to safeguard certain environmental or cultural resources on the Property.

2.3.1.7 Licensee shall not build any structures of any character upon the Premises.

3.2 Utilities and Services. The following is added to Paragraph 2.3.2 of this License:

2.3.2.1 Stock Water. The Licensee, at no expense to VID, shall maintain all springs, tanks, watering troughs, and water lines as needed to provide water for its stock. The Licensee may use limited quantities of water, as available, which the District may produce from wells in its water production system, but VID has no obligation to provide water under pressure for supplying stock water to Licensee. Should Licensee need stock water at a pressure greater than those maintained by VID in the normal operation of its water production system, Licensee shall install, operate and pay for any additional pumps or equipment and all energy costs. Only such water as can efficiently be used by the Licensee for the watering of its stock shall be furnished by VID under this License. VID retains the right to suspend supplying stock water to prevent waste.

3.3 Licensee's Obligation to Maintain Premises. The following is added to Paragraph 2.7.1 of this License:

2.7.1.1 Licensee shall, at no expense to VID, maintain in good repair all fences and corrals on the Premises, including all fences along highways, roads and all Warner Ranch exterior or perimeter fences. Should Licensee's operations result in cattle grazing along the perimeter of Warner Ranch where fences do not exist, Licensee shall, at no expense to VID, construct fences so as to confine its cattle to the Premises. Except as otherwise provided herein, Licensee shall keep and maintain all improvements on the Premises, including cattle-handling facilities, cattle-guards, and other appurtenances, in good condition and repair.

2.7.1.2 Licensee acknowledges that it has examined and is fully familiar with the Premises and all improvements and accepts them in their present condition. Licensee will save and hold harmless VID from any and all claims for labor and materials (except where otherwise stated herein) in connection with the improvements, repair, or alterations made to or upon the Premises by Licensee.

2.7.1.3 Pest Control. Lessee shall carry on all of its operations hereunder in accordance with good husbandry and sound agronomic and environmental practices, including, but not limited to, pest eradication and control, but only to the extent reasonably necessitated by use of the Premises permitted by this License and as required by VID's Representative. Lessee shall, in all its operations under this License and at its expense, comply with all applicable laws, rules and regulations, including, but not limited to the California Occupational Safety and Health Act of 1973, as amended. Any chemicals, sprays, or materials used for any purpose must be approved by the VID's Representative for their compatibility with the District's water system operation.

3.4 Miscellaneous. The following is added to Paragraph 2.8. of this License:

2.8.11 Reports and Information. Upon request, Licensee shall furnish VID copies of all brand inspection reports covering all cattle shipped to or removed from the Premises. Licensee shall further afford VID full and complete access to books and records of Licensee at all reasonable times, or, in lieu thereof, furnish on demand, a statement, certified by a certified public accountant, covering Licensee's operations, including all expenses incurred insofar as the same relate to Licensee's utilization of the Premises.

Initial:

\_\_\_\_\_  
Licensee

\_\_\_\_\_  
VID

**[END SPECIAL LICENSE PROVISIONS]**

## **PART IV**

### **Premises**

The Premises shall consist of those portions of the legal lots included in the Assessor's Parcel Map numbers listed below which also lie east of the Highway 79 right-of-way and south of either the Highway S-2 or S-22 rights-of-way, subject to the terms, conditions and reservations contained in the Agreement:

#### **Assessor's Parcel Numbers**

137-090-35

193-080-30

195-020-02

195-050-20

195-070-31

The Premises comprise an area of about 8,100 acres, more or less. The area is informally broken into pastures which presently carry the names "Sloan", "Mataguay 1", "Mataguay 2", and "Barrel".



**WARNER RANCH  
COMMITTEE REPORT**

**Agenda Item: 7**

**Meeting Date: October 10, 2017**  
**Prepared By: Don Smith**  
**Reviewed By: Brett Hodgkiss**  
**Approved: Eldon Boone**

**SUBJECT:** FERAL PIG MANAGEMENT

**RECOMMENDATION:** Consider a contribution of \$10,000 towards feral pig monitoring program for San Diego County.

**PRIOR BOARD ACTION:** On October 19, 2011 the Board authorized the District to sign the Principles of Understanding for the Inter-Governmental Group of Feral Pig Impacts and authorized a contribution of \$10,000 to support the group's activities. In February of 2013, the Warner Ranch Committee recommended contributing an additional \$20,000 towards this effort, with an annual contribution contingent on the successful implementation of a coordinated approach to feral pig management.

**FISCAL IMPACT:** \$10,000.

**SUMMARY:** Since its inception in 2010, the Inter-Governmental Group of Feral Pig Impacts (Pig Group) has made significant progress towards minimizing feral pig impacts within the San Diego County (County). The current feral pig population is believed to be limited to two boars, one south of Santa Ysabel and one near Descanso. Efforts to monitor and trap feral pig within the County are ongoing and are largely being undertaken by Wildlife Services (a division of the US Department of Agriculture, Animal and Plant Health Inspection Service) and San Diego State University. The Pig Group is ready to undertake Phase II of the monitoring program.

**DETAILED REPORT:** On March 7, 2012, the District, with the support and assistance of Wildlife Services, successfully trapped and removed 30 feral pigs from the Warner Ranch. Since that time, while the District has observed no pig sign on the Warner Ranch, the District has continued to participate in county-wide efforts to eradicate feral pigs. Wildlife Services has been preparing monthly reports on the status of Feral Pig Management (August 2017 report attached).

Current efforts are primarily focused on monitoring to detect or confirm the absence of feral pig in the County. A protocol for Phase II Monitoring Program (Program) has been prepared; the Program's budget is \$119,340. San Diego Association of Governments is contributing \$50,000 leaving \$69,340 of the budget still needing to be funded.

The Pig Group will be meeting on September 26, 2017 to discuss the status of management efforts and prospects for continued funding. Staff recommends contributing \$10,000 towards the Program.

**ATTACHMENTS:**

- Feral Pig Management in San Diego County for August, 2017 (Wildlife Services)
- Feral Pig Monitoring Program – Phase II Protocol (SDSU)
- Feral Pig Monitoring Program Budget Needs (SDSU)



Animal and Plant  
Health Inspection  
Service

Wildlife Services

South District Office

9380 Bond Avenue  
Suite A  
El Cajon, CA 92021  
Phone: 619-561-3752

**SUBJECT:** Feral Pig Management in San Diego County for August, 2017

**DATE:** September 11, 2017

### Summary

In August, Wildlife Services (WS) continued field work on Forest Service, City of San Diego Public Utilities, BLM, and small properties near Descanso, Pine Hills and Santa Ysabel. The general locations of trail cameras and traps included Hauser Canyon, Corral Canyon OHV Area, Hauser Mountain, Pine Grove, Barrett Lake, Pine Hills, Boulder Creek and areas surrounding the El Capitan Grande Reservation and Descanso.

Four of our Jager Pro cameras are still active on private parcels in Santa Ysabel, Pine Hills and Descanso and are providing real time photos but have not captured any photos of pigs. The fifth camera, on El Cajon Mountain, has not provided any recent photos of the lone boar in the area. There has not been any fresh rooting on the mountain since June.

Based on information provided to us from the USFS regarding a photo of a male boar on the San Diego River Parks Foundation property on Eagle Peak Rd., WS contacted and signed an agreement with the Foundation to monitor the Eagle Peak Ranch parcel for pig activity. On August 15th, WS installed three cameras on the ranch. On August 23, while collecting eDNA samples from the ponds on the ranch, WS discovered a wallow in one of the three pond. Minor rooting was discovered at the other two ponds. WS set a forth camera overlooking the wallow.

WS has submitted three eDNA samples collected at Eagle Peak Ranch to NWRC to determine the presence of pigs. Test results are not available yet. Water samples are still being collected from small water sources (e.g. ponds, springs, stock tanks) when discovered.

WS also collected three samples of scat from the Descanso area and sent them to NWRC for testing. All samples tested negative for feral swine. We continue to search areas for scat samples, which will also be forward to NWRC for analysis and use in training detection dogs.

We are still in the process of identifying other accessible areas between Cuyamaca Rancho State Park (CRSP) and Viejas/El Capitan Reservoir and have gained access on properties leading to the Kings Creek basin. No additional rooting or wallows have been located.

### Results

- The adult boar with a split left ear continues to utilize the Forest Service land surrounding El Capitan Grande Reservation and Descanso. Based on the most recent activity in the Eagle Peak area, the boar has changed its range again but has

not been consistently using any one location. The boar was last seen on camera at the Eagle Peak Ranch on 8/19/2017. The same boar was previously photographed on 7/20/2017. The boar's historic range is approximately 196 SQ/KM.

- WS has continued networking with the Viejas Team who had been tracking the movements of the boar traveling between El Cajon Mountain and Descanso. They have photos of the pig in South Fork on August 10 and the King's Creek Basin on August 11.

### **Future Plans**

- 1) WS will monitor and adjust the locations of the cell phone capable cameras in remote locations with cell service which are currently active for pigs;
- 2) Continue collecting scat and eDNA samples for analysis predominately in north and east San Diego County;
- 3) Continue to expand reconnaissance efforts in areas near Boulder Creek Rd., Eagle Peak Rd., Descanso and CRSP, while maintaining surveillance of other locations around the county.

### **Recommendations**

These recommendations are not required or mandatory and some are in the process of being completed. Wildlife Services recognizes some of the recommendations are simple and require little planning; while others involve the coordination of several different entities, require substantial resources, sufficient funds, and are intended to be long-term projects.

- 1) Entities that have placed cameras on property to monitor for feral pigs or other wildlife species should continue to provide camera locations to Megan Jennings. This will allow Megan and WS to better evaluate locations that have not been monitored for feral pig activity. Please "cc" me as well.
- 2) Please promptly forward any photos of pigs taken to me so I can attempt to ID pigs caught on camera. Similarly, any new evidence of pigs (e.g. sightings, wallows, tracks, etc.) should be reported immediately so that management strategies can be implemented.

Sincerely,

Gary F. Brennan  
Biological Science Technician-Project Leader  
USDA-APHIS-Wildlife Services  
South District CA  
9380 Bond Road, Suite A  
El Cajon, CA. 92021-2851  
Cell: 619-820-9919  
Office: 619-561-3752

**Feral Pig Monitoring Program – Phase II Protocol**  
*San Diego State University*

Since the Feral Pig Removal Program was started in June of 2014, monitoring has occurred in areas where pigs have been detected and/or removed, and where pigs and/or sign of pigs have been identified from pre-program surveys. This has primarily been accomplished through the use of camera stations and on-site surveys. While this has been very successful and should continue, many areas have either not been monitored or not received an adequate degree of monitoring, and should be included in ongoing survey efforts to ensure the absence of pigs throughout the county. The following protocol identifies monitoring efforts to date, and proposes additional monitoring components to be implemented.

**Permanent Camera Stations**

The cornerstone of the monitoring program is the installation of camera stations. The goal of these stations is to cover the extent of the affected area and slightly beyond with permanent monitoring stations that will remain in fixed locations over the life of the feral pig eradication effort. These monitoring stations allow for consistent data collection through all phases of the project to inform implementation planning and to provide a basis upon which we can determine if the eradication effort has been successful.

Camera station locations were identified across the entire study area using a combination of GIS and field-based information. We began by generating a grid of 10 km by 10 km cells over all known pig locations in San Diego County surrounded by a 10 km buffer. This design identified 90 grid cells and will ensure we evenly distribute our monitoring efforts across the project area. Based on mapping, we chose one to two camera locations within each cell along movement corridors, funnels, and pinch points to increase our chances of detecting pigs if they are in the area. These locations were cross-referenced with the feral pig habitat suitability model created by the Conservation Biology Institute and The Nature Conservancy (CBI 2009) to ensure cameras are placed primarily in high quality habitats. Once potential station sites were mapped, we began field-based site selection. Once we reached the GIS-mapped camera location, we searched the general area within approximately 100 m to identify wildlife trails, suitable mounting sites for camera installation, and options for camouflaging the cameras from people to limit vandalism and theft. Based on what we found on-site, we made the final decision on camera placement and installed and baited stations with a fermented corn mixture to improve our detection rate if pigs are in the general vicinity of the monitoring station. Upon set up, stations were tested for adequacy of placement during an initial sampling period of two to four weeks. Modifications to camera placement were made as necessary to maximize detection of animal movement, and camera stations remain in place until the end of the project.

As of January 2017, 25 permanent camera stations are currently being run by SDSU, with another 34 being run by partners at Wildlife Services and California State Parks, according to our permanent station protocol. We anticipate the installation of 10-15 additional permanent stations in the first 6 months of funding and initiation of Phase II of the monitoring program. These camera stations are checked and maintained approximately once per month to ensure efficient operation and collection of camera data. All photos from these cameras are retained, regardless of whether pigs are detected. Data are currently stored and processed at San Diego State University.

04/30/2017

To refine and enhance our monitoring program, we have downscaled our grid system to 50 km<sup>2</sup> grid cells over the same area, which results in 131 grid cells. Phase II of the monitoring program will be based on these finer-scale grid system.

### **Temporary Camera Stations**

Since June 2014, a total of 414 cameras have been installed and run for various lengths of time by Wildlife Services (WS). Many of these have been relocated or removed based on the data collected from the stations. As of November 2016, 112 camera stations are in operation and managed by WS. Currently, only photos with pig detections are retained from these cameras. It is expected that WS will continue this process as appropriate.

### **Rotating Camera Stations**

In addition to the cameras stations as outlined above, rotating cameras will be installed in all grid cells with no current monitoring, and other grid cells as appropriate following the proposed monitoring protocol. Table 1 presents proposed monitoring levels and the criteria used to determine the appropriate level for each grid cell.

At least one camera will be installed in each grid cell for 4-6 weeks, in each of 2 seasons (wet and dry). Rotating camera sites will be chosen using both GIS and field-based data in a manner similar to that used to identify permanent camera stations, but will also have other important considerations such as land access. The level of monitoring in each grid cell will be determined based on all available monitoring data, such as whether pigs/sign were ever present, the level of camera monitoring over time, number of site visits/surveys, and available access to monitoring sites. Figures 1 and 2 show proposed monitoring levels in each grid with additional supportive data. These survey level assignments and recommendations will be refined as we gather additional data, particularly efforts led by Wildlife Services to incorporate additional survey techniques such as aerial sign surveys, scat detection dogs, and eDNA detection, which will be used to test for trace amounts of pig DNA in small water sources throughout the study area and beyond. We will also review these recommendations after we complete revised habitat suitability models based on our existing detection data.

### **Site Visits/Surveys**

On-site visits and surveys are a key component to the monitoring success. As of September 2016, approximately 4,400 km of roads and trails have been surveyed for the presence of pigs since the beginning of the program. Most of this work has been completed and documented by Wildlife Services, although it is likely that other surveys have been done by partner agencies for which we do not yet have documentation. We are working to compile such survey data from all partner agencies. We have worked with the San Diego Natural History Museum to refine an online reporting database they designed during initial tracking of the pig population. The added functionality will provide an opportunity for project partners to input survey data, particularly negative survey data, to document areas that have been surveyed repeatedly where no pig sign has been detected.

For future monitoring, areas that have had no prior sign or presence of pigs will initially be surveyed 2 times per year, then continually surveyed at the same rate as long as there are no detections of pig or pig sign. If pigs/sign are detected, surveys will increase as deemed appropriate. For areas with

previous presence of pigs/sign and current monitoring in place, 3 site visits are recommended, and in areas with previous pigs/sign and no current monitoring, 4 surveys per year are advised.

Responsibility for site visits/surveys will be coordinated among partner agencies. Wildlife Services currently monitors large areas of U.S. Forest Service land in the process of monitoring and maintaining their cameras. Other partners are strongly encouraged to survey their own properties following the general schedule as outlined in Table 1, which SDSU will determine and coordinate.

Table 1. Recommended future monitoring levels for each grid cell based on available data.

Monitoring Level (lowest to highest)	# Rotating Cameras to be installed	# Seasons <sup>^</sup> for Rotating Cameras	# Site visits per year to be completed	Criteria
I	1	2	1	Areas with some prior surveys or monitoring, but no detections of pig/sign
II	2	2	2	Areas with no prior surveys or monitoring, no detections of pig/sign, no reports
III	3	4	2	Areas with no prior surveys or monitoring, but any reports of sign
IV	*TBD	4	3	Areas with prior pigs/sign, some level of monitoring after removal and current monitoring
V	3	4	4	Areas with some prior surveys or monitoring, 1+ detections, but no current monitoring

<sup>^</sup>Cameras will be placed for 4-6 weeks in the wet season, then placed again for the same amount of time in the dry season.

\* To be determined based on the current number of active cameras; rotating cameras may not be necessary in some grids if current monitoring is sufficient.

## References

Conservation Biology Institute (CBI). 2009. An Assessment of the Known and Potential Impacts of Feral Pigs (*Sus scrofa*) in and near San Diego County with Management Recommendations. Report prepared for The Nature Conservancy, October 2009.

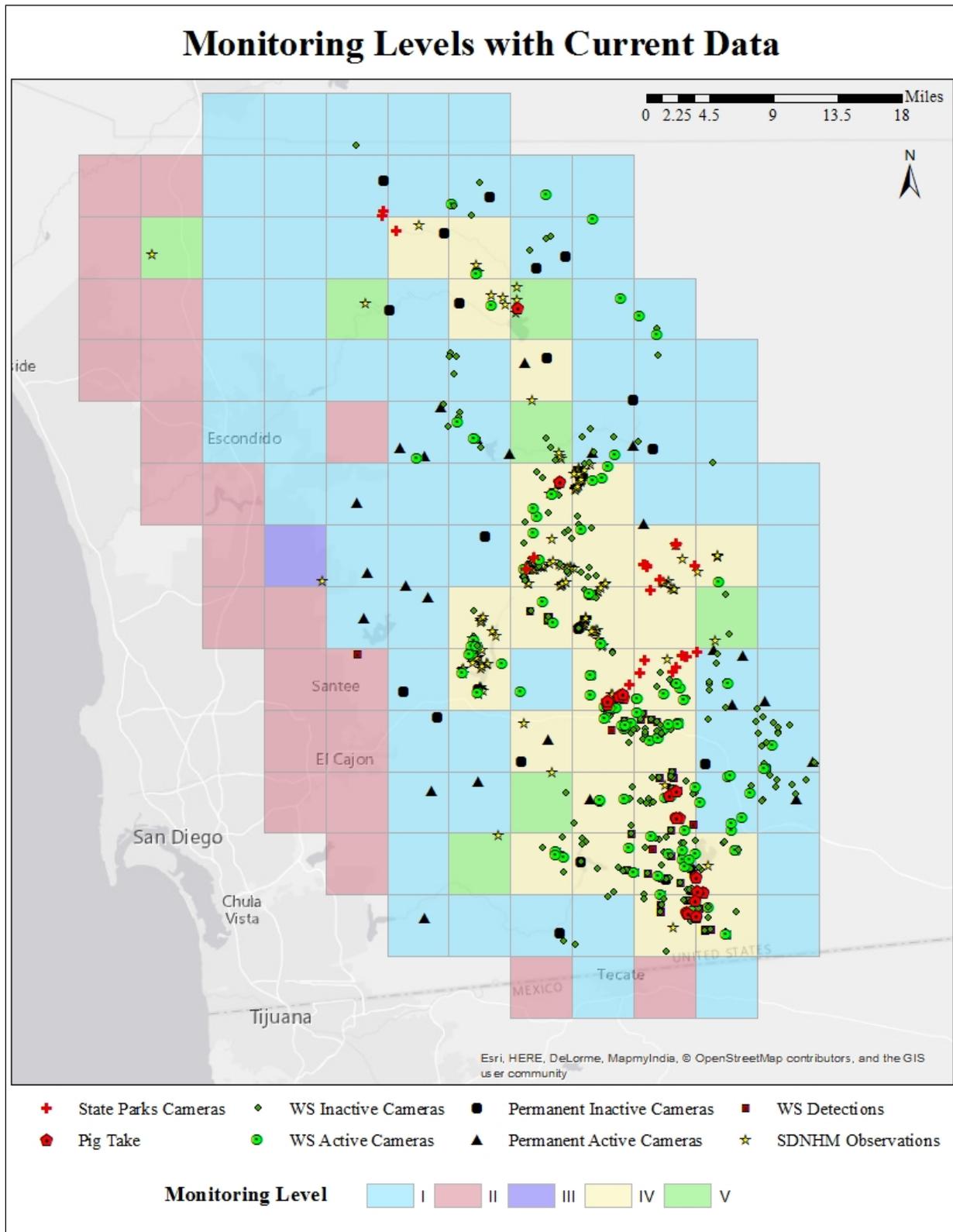


Figure 1. Proposed monitoring levels in each grid cell with current observational data and monitoring status.

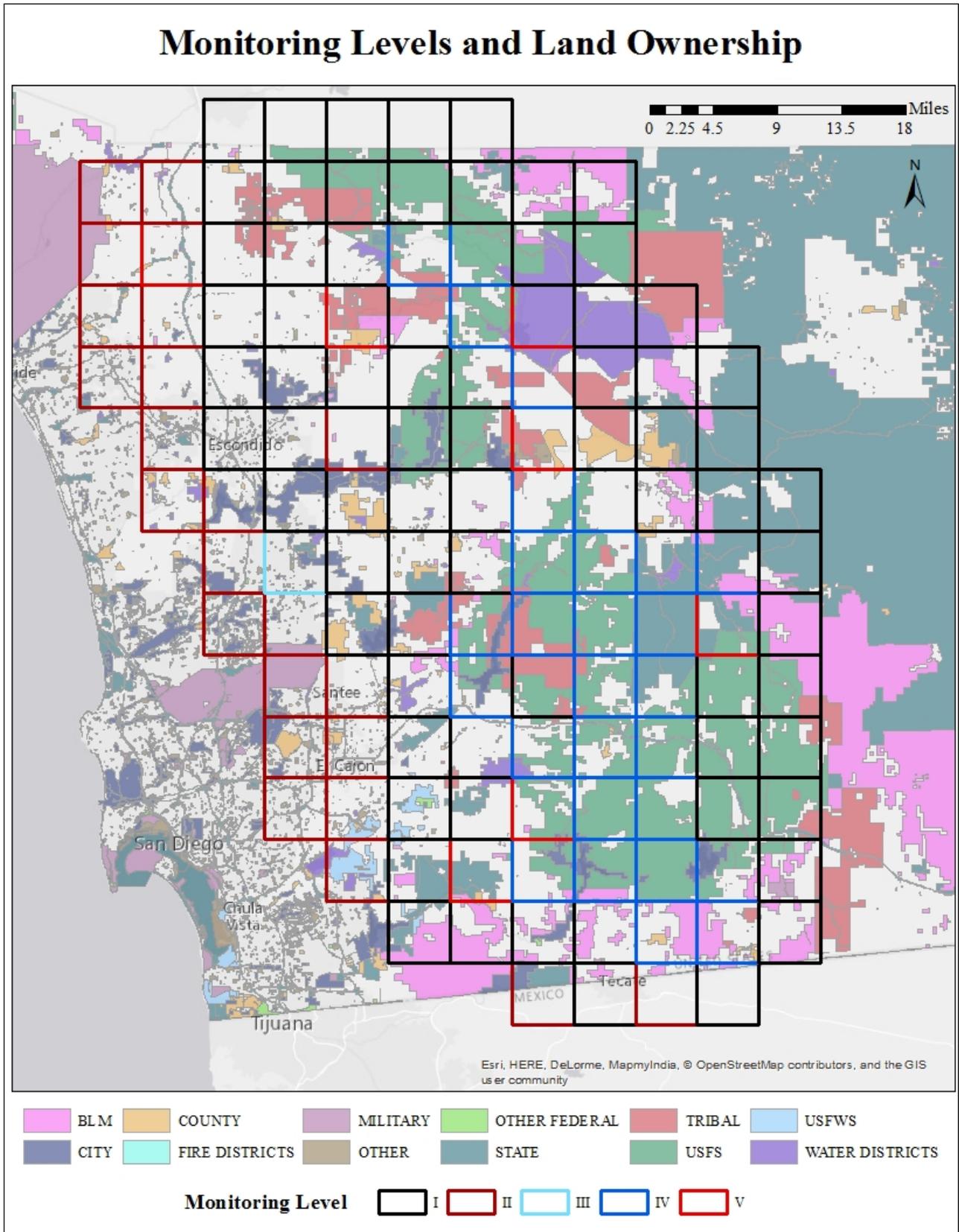


Figure 2. Monitoring levels and land ownership in each grid cell.

**Feral Pig Monitoring Program Budget Needs  
FY 2017-2018  
San Diego State University**

Line Item Description	Total Cost – Phase II Monitoring – Year 1	Match	
		Funds Contributed (SANDAG) – Year 1	Budget Shortfall – Year 1
Salary and Wages: Co-PI (10% time), Project Manager (50% time), Field Technician (50% time)	\$54,000	\$27,146	\$26,854
Staff Benefits	\$15,715	\$7,536	\$8,179
Equipment (Cameras, batteries, SD cards, locks)			
Materials and Supplies			
Travel <sup>1</sup>	\$25,000*	\$5,000	\$20,000
Contractual Services (specify subcontractors)			
<b>Total Direct Costs</b>	<b>\$94,715</b>	<b>\$39,682</b>	<b>\$55,033</b>
Indirect Costs (26%)	\$24,625	\$10,317	\$14,308
<b>Total Costs</b>	<b>\$119,340</b>	<b>\$49,999</b>	<b>\$69,341</b>

\*Subsequent years could be funded at a lesser rate with \$5,000 per year for travel costs.

<sup>1</sup> Includes mileage costs and funds towards purchase of a replacement field vehicle.



**WARNER RANCH  
COMMITTEE REPORT**

**Agenda Item: 8**

**Meeting Date: October 10, 2017**  
**Prepared By: Don Smith**  
**Reviewed By: Brett Hodgkiss**  
**Approved: Eldon Boone**

SUBJECT: LAND USE AGREEMENTS ON WARNER RANCH

RECOMMENDATION: Informational report regarding various land use agreements on the Warner Ranch.

PRIOR BOARD ACTION: None.

FISCAL IMPACT: Total annual income from existing land use agreements on Warner Ranch is about \$600,000.

SUMMARY: There are currently eighteen (18) land use agreements between the District and various parties for the use of portions of the Warner Ranch, primarily in the form of leases and licenses. Eighty-five percent (85%) of the income from these agreements is generated from cattle grazing, recreational uses and military training. Other land uses include wireless telecommunications (cell towers), governmental uses (conservation camp, fire station, maintenance yard and borrow pit), operation of the Warner Carrillo Ranch House and other miscellaneous agreements.

DETAILED REPORT: A listing of all the land use agreements (excluding easements) on the Warner Ranch is attached for reference.

ATTACHMENT: Leases and Licenses on Warner Ranch.

## Leases and Licenses on Warner Ranch

October 2017

Descriptions of leases and licenses on the Warner Ranch are organized as follows:

<u>Recreational Leases/Licenses</u>	<u>Expiration Date</u>
1. Recreational Concession	12/31/2017
2. Hunting Sub-concession	12/31/2017
<u>Grazing Leases/Licenses</u>	
3. Hettinga Grazing Lease	12/31/2012 (holdover)
4. Mendenhall Grazing License	12/31/2017
5. Taylor Grazing License	12/31/2020
<u>Government Leases/Licenses</u>	
6. Remote Training Site Warner Springs	12/31/2020
7. Puerta La Cruz Conservation Camp	3/31/2017 (holdover)
8. Henshaw Fire Station	9/30/2025
9. Warner Borrow Pit	None (6 months notice)
10. Caltrans Lake Henshaw Maintenance Station	9/30/2033
<u>Other Commercial Leases/Licenses</u>	
11. Puerta La Cruz Telecommunications License	8/14/2019
12. Lake Henshaw Telecommunications License	7/4/2019
13. Warner Substation	9/30/2045
14. Seed Collection License	6/30/2021
<u>Other Agreements</u>	
15. Warner Carrillo Ranch House	8/3/2031
16. Lake Henshaw Seismic Monitoring Station	1/9/2044
17. Plate Boundary Observatory	6/1/2019
18. Goldspotted Oak Borer (GSOB) Warning Signage	None
<u>Recreational Leases/Licenses</u>	
1. <b>Name:</b> Recreational Concession	
<b>Lessee/Licensee:</b> Lake Henshaw Resort, Inc.	
<b>Date use commenced:</b> 1920's	
<b>Term and Current lease expiration date:</b> 10 + two 5-year renewal options; 12/31/2017	
<b>Current annual fee and adjustment:</b> Variable – formula tied to “Adjusted Gross Receipts”; in FY 2017, the total Concession payment was \$47,540 (not including Hunting Sub-Concession, discussed below).	
<b>Premises:</b> “Recreational Area” consists of about 3,400 acres, but Concessionaire has right of first refusal over any similar recreational use on the Warner Ranch (approximately 43,000 acres)	
<b>Use description:</b> The primary operations of the Recreational Concession are categorized as follows:	
<ul style="list-style-type: none"><li>• Mobilehome park</li><li>• Camp ground</li><li>• Cabin rental</li><li>• Fishing and boating on Lake Henshaw</li><li>• General store</li><li>• Restaurant (Roundup Grill)</li><li>• Public waterfowl hunting on Lake Henshaw</li><li>• Hunting sub-concession on the Warner Ranch(described below)</li></ul>	

2. **Name:** Hunting Sub-concession  
**Lessee/Licensee:** My Country Club, Inc., as a sub-concessionaire to Lake Henshaw Resort, Inc.  
**Date use commenced:** 2007 (it is believed the District allowed hunting operations on the Warner Ranch before about 1980).  
**Term and Current lease expiration date:** Year-to-year; 12/31/2017  
**Current annual fee and adjustment:** \$110,000; no adjustment  
**Premises:** About 18,000 acres of defined hunting zones  
**Use description:** Hunting activities outside the "Recreational Area" include: Spring turkey, fall deer, dove, quail, archery deer, and put & take game birds.

#### Grazing Leases/Licenses

3. **Name:** Hettinga Grazing Lease  
**Lessee/Licensee:** Hein Hettinga  
**Date use commenced:** Hettinga first held the grazing lease in 1990; the Warner Ranch has been continuously grazed since the 1800's.  
**Term and Current lease expiration date:** 5 years; 12/31/2012; currently in holdover  
**Current annual fee and adjustment:** \$186,870 plus \$12.34/head/month over 1,400 head; CPI adjustment; the fixed amount (not subject to CPI adjustment) of \$33,600 of base rent plus \$2.00/head/month of excess cattle reserved for "Ranch Improvement Fund"; Ranch Improvement Fund balance in excess of \$150,000 (9/1/2017).  
**Premises:** About 26,400 acres  
**Use description:** heifer replacement herd for dairies; includes employee residence and barn
4. **Name:** Mendenhall Grazing License  
**Lessee/Licensee:** Mendenhall Cattle Company  
**Date use commenced:** 2008  
**Term and Current lease expiration date:** 5 years; 12/31/2017  
**Current annual fee and adjustment:** \$13,340 plus \$12.34/head/month over 100 head; CPI adjustment  
**Premises:** About 8,100 acres, east of Hwy 79 & south of Hwy S-2 & S-22; the premises were part of the Hettinga Grazing Lease prior to 2008  
**Use description:** Cow/calf operation; raising of beef cattle
5. **Name:** Taylor Grazing License  
**Lessee/Licensee:** Michael J. Taylor  
**Date use commenced:** 1976 or earlier  
**Term and Current lease expiration date:** 5 years; 12/31/2020  
**Current annual fee and adjustment:** \$1,650; no adjustment  
**Premises:** About 95 acres, south of Highway 76, west of Morretti's junction  
**Use description:** grazing and pasturage of cattle

#### Government Leases/Licenses

6. **Name:** Remote Training Site Warner Springs  
**Lessee/Licensee:** United States Department of the Navy  
**Date use commenced:** 1970; expanded in 2010  
**Term and Current lease expiration date:** Five one-year options through 12/31/2020  
**Current annual fee and adjustment:** Lease - \$54,125; License - \$96,152; CPI adjustment  
**Premises:** Lease - 1,198 acres (exclusive use); License - 4,307 acres (joint use)  
**Use description:** Operation of the Navy SERE school (Survival, Evasion, Resistance, Escape) for personnel at high risk of capture; military exercises; regular environmental studies and impacts assessment
7. **Name:** Puerta La Cruz Conservation Camp  
**Lessee/Licensee:** California Department of Forestry and Fire Prevention (CALFIRE)

**Date use commenced:** 1957  
**Term and Current lease expiration date:** 30 years; 3/31/2017; currently in holdover  
**Current annual fee and adjustment:** \$12,071; CPI adjustment  
**Premises:** About 30.8 acres at north end of Linton Road (camp site), plus about 6.5 acres adjacent to Highway 79, north of Linton Road (guard residence site)  
**Use description:** Conservation Camp for the purpose of housing and training approximately 120 inmates in wildland fire suppression activities

8. **Name:** Henshaw Fire Station  
**Lessee/Licensee:** United States Forest Service  
**Date use commenced:** circa 1930's??  
**Term and Current lease expiration date:** 10 years; 9/30/2025  
**Current annual fee and adjustment:** \$500.00; no adjustment  
**Premises:** About 1.3 acres  
**Use description:** operation of the Henshaw Fire Station; fire suppression activity an additional consideration for lease
9. **Name:** Warner Borrow Pit  
**Lessee/Licensee:** County of San Diego  
**Date use commenced:** 1963  
**Term and Current lease expiration date:** Termination upon 6 months notice (indefinite term)  
**Current annual fee and adjustment:** Variable; royalty of \$0.36/cubic yard of material used; average of \$340/yr.; royalty escalates 5% after every 5 years  
**Premises:** About 16.1 acres adjacent to Highway S-22 (Montezuma Valley Road)  
**Use description:** excavation of decomposed granite for use in highway maintenance
10. **Name:** Caltrans Lake Henshaw Maintenance Station  
**Lessee/Licensee:** California Department of Transportation (Caltrans)  
**Date use commenced:** 1934  
**Term and Current lease expiration date:** 99 years; 9/30/2033  
**Current annual fee and adjustment:** \$1 for entire 99 year period  
**Premises:** About 2.9 acres  
**Use description:** highway maintenance yard; employee residences not used

Other Commercial Leases/Licenses

11. **Name:** Puerta La Cruz Telecommunications License  
**Lessee/Licensee:** Crown Castle Towers, LLC  
**Date use commenced:** License 2007; in service 2010  
**Term and Current lease expiration date:** 10 years + two 5-year options; 8/14/2019 (end of 10 year initial term)  
**Current annual fee and adjustment:** \$17,990; 3.5% per year escalation  
**Premises:** 36' x 61' plus access off of Linton Road  
**Use description:** cellular telecommunications tower and equipment

12. **Name:** Lake Henshaw Telecommunications License  
**Lessee/Licensee:** New Cingular Wireless LLC (AT&T)  
**Date use commenced:** License 2014; in construction 2017  
**Term and Current lease expiration date:** 5 years + three 5-year options; 7/4/2019 (end of 5 year initial term)  
**Current annual fee and adjustment:** \$39,338; CPI adjustment with 3% floor and 6% ceiling  
**Premises:** 22' x 30' plus access through Lake Henshaw Resort from Highway 76  
**Use description:** cellular telecommunications tower and equipment
13. **Name:** Warner Substation  
**Lessee/Licensee:** San Diego Gas & Electric Company (SDG&E)  
**Date use commenced:** 1949  
**Term and Current lease expiration date:** 46 years; 9/30/2045  
**Current annual fee and adjustment:** \$12,063; CPI adjustment  
**Premises:** About 5.7 acres near junction of Hwy 79 & S-2  
**Use description:** electrical substation
14. **Name:** Seed Collection License  
**Lessee/Licensee:** Noll Seeds, Inc.  
**Date use commenced:** 2006  
**Term and Current lease expiration date:** Five one-year renewals; 6/30/2021  
**Current annual fee and adjustment:** Variable; 10% of fair market value of seed collected, with a minimum of \$1,000 per year; average \$1,800/yr.; no adjustment  
**Premises:** 42,000 acre Warner Ranch  
**Use description:** catalog, collect and harvest seeds of plants on Warner Ranch

#### Other Agreements

15. **Name:** Warner Carrillo Ranch House  
**Party:** Save Our Heritage Organization  
**Date use commenced:** Operating Agreement 2011; operation 2012  
**Term and Current lease expiration date:** 20 years + 10 year extension; 8/3/2031  
**Current annual fee and adjustment:** VID contributes \$12,000 per year towards operation and maintenance expenses  
**Premises:** "Grounds" comprise historic ranch house and barn, and new restroom facilities  
**Use description:** house museum with weekend hours
16. **Name:** Lake Henshaw Seismic Monitoring Station  
**Lessee/Licensee:** United States Geological Survey  
**Date use commenced:** 2014  
**Term and Current lease expiration date:** 30 years; 1/9/2044  
**Current annual fee and adjustment:** No fee.  
**Premises:** About 40' x 15', on hill southeast of Dam 3  
**Use description:** vault with seismometer, and panels for GPS and radio equipment
17. **Name:** Plate Boundary Observatory  
**Lessee/Licensee:** UNAVCO  
**Date use commenced:** 2004  
**Term and Current lease expiration date:** 15 years; 6/1/2019  
**Current annual fee and adjustment:** No fee  
**Premises:** about 20' x 20', on hill south of Warner Carrillo Ranch House  
**Use description:** panels for GPS and radio equipment

18. **Name:** Goldspotted Oak Borer (GSOB) Warning Signage  
**Lessee/Licensee:** United States Forest Service (USFS)  
**Date use commenced:** 2015  
**Term and Current lease expiration date:** Continue until terminated  
**Current annual fee and adjustment:** No fee  
**Premises:** About 10' x 20', adjacent to Highway 76, southeast of intersection with East Grade Road  
**Use description:** public information sign