

Minimum Water Flows/Municipal Water Department: Settlement Agreement Addresses California River/Endangered Species



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The City of San Bernardino, California and City of San Bernardino Municipal Water Department (“Water Department”) and the Center for Biological Diversity and San Bernardino Audubon Society (collectively “CBD”) entered into an October 2nd Settlement Agreement (“Agreement”) addressing the maintenance of certain minimum water flows in the Santa Ana River.

The purpose of the Agreement is to protect an endangered species known as the Santa Ana sucker.

The San Bernardino Municipal Water Department operates a wastewater treatment facility known as the Rapid Infiltration and Extraction facility (“RIX”) that discharges treated wastewater into the Santa Ana River.

CBD had filed a protest to a Petition by this facility which had sought authorization from the California Water Resources Control Board in regards to a wastewater recycling and groundwater project known as the Clean Water Factory Project. The protest raised concerns about the impacts of reducing discharge to the Santa Ana River on downstream beneficial uses including the industry and habitat of the Santa Ana sucker. The Santa Ana sucker is a federally listed threatened species and California Species of Special Concern.

The Agreement is described as the result of discussions and negotiations between the Water Department and CBD. The focus of the discussion was CBD’s concern associated with the Clean Water Factory Project and an Environmental Impact Report. The Agreement addresses:

- Minimum Discharge Commitment
- Upper Santa Ana River Habitat Conservation Plan
- Establishment of New Populations of Santa Ana Sucker
- Mitigation for Other Species Impacts
- Additional Analysis
- Permits for Groundwater Pumping
- Coordination of Operations During RIX Shutdown
- Dismissal of Protest and California Environmental Quality Act Litigation
- Release of Water Department

A number of other standard provisions were also included in the Agreement.

A copy of the Agreement can be downloaded [here](#).

