

Bend OR
(541) 382-3011

Indian Wells
(760) 568-2611

Irvine
(949) 263-2600

Los Angeles
(213) 617-8100

Ontario
(909) 989-8584



BEST BEST & KRIEGER
ATTORNEYS AT LAW

1800 K Street NW, Suite 725, Washington, D.C. 20006
Phone: (202) 785-0600 | Fax: (202) 785-1234 | www.bbklaw.com

Riverside
(951) 686-1450

Sacramento
(916) 325-4000

San Diego
(619) 525-1300

Walnut Creek
(925) 977-3300

Washington, DC
(202) 785-0600

Lowry A. Crook
(202) 370-5328
lowry.crook@bbklaw.com

Memorandum

To: Salton Sea Authority Board of Directors
From: Lowry A. Crook
Date: December 8, 2022
Re: Authorization to enter into agreements with the U.S. Army and California Department of Water Resources for an Army Corps of Engineers feasibility study for restoring the Salton Sea and protecting public health

Background

In its February 2022 Work Plan for the Bipartisan Infrastructure Law funding, the U.S. Army Corps of Engineers provided \$1.5 million and a New Start authorization to begin a feasibility study for a Federal project that would restore the Salton Sea, its tributaries, and protect public health and safety in the region. Under Army Corps law and policy, the cost of feasibility studies is generally split evenly between the Federal government and local sponsors, and the estimated costs and responsibilities are governed by a Feasibility Cost Share Agreement. The Army Corps, Department of Water Resources, and Salton Sea Authority staffs and counsel have negotiated a draft Feasibility Cost Share Agreement that follows the Army Corps of Engineers' standard terms, with the Salton Sea Authority and Department of Water Resources serving as joint local sponsors. The draft agreement states that the Department of Water Resources intends to provide most of the local cost share as work in-kind instead of cash. The Army Corps, Department of Water Resources, and Salton Sea Authority are planning to sign the Agreement at a signing ceremony at the North Shore Yacht Club next Friday, December 16th.

Once the feasibility study leads to a recommended and authorized Federal project, and Congress begins to provide funds for construction, the Army Corps of Engineers will generally fund 65% of the project's design and construction costs.

In addition to the Feasibility Cost Share Agreement, Salton Sea Authority and Department of Water Resources staff and counsel have negotiated a draft interlocal agreement that states that the Department of Water Resources will provide the local cost share for the feasibility study, and that



BEST BEST & KRIEGER
ATTORNEYS AT LAW

provides an expedited process for resolving any disputes between the Salton Sea Authority and the State regarding the feasibility study.

For execution of the Feasibility Cost Share Agreement, the Army Corps requires the local sponsor's General Counsel to provide a certification that the signer has the legal authority to enter into the agreement for the local sponsor entity. By the proposed motion below, the Salton Sea Authority's Board of Directors can provide clear authority for the Executive Director/GM to execute the Feasibility Cost Share Agreement and a corresponding interlocal agreement with the Department of Water Resources.

Proposed Motion:

I move to authorize the Executive Director/General Manager to execute a Feasibility Cost Share Agreement with the U.S. Department of the Army and the California Department of Water Resources, and a local agreement with the Department of Water Resources, for the Imperial Streams Salton Sea and Tributaries Feasibility Study to recommend a solution to restore the Salton Sea and tributaries and protect public health and safety in the region.