



# North Basin - EPA Administrative Settlement Agreement

Board of Directors  
June 15, 2016



# Agreement Overview

- Recent history
- Scope of the agreement
- Legal commitments
- Implementation
- Cost & desired outcome





# Recent History

Oct 2013	Adverse State Court ruling	Feb 2016	OCWD responds to invitation, others do not
Aug 2013	Retain non-contingent attorney & shift to EPA enforcement strategy	Mar 2016	OCWD and Northrop informally agree to work toward collaborative approach
Aug 2014	Adoption of GW quality protection policy (NCP)	April 2016	Staff enters into detailed negotiations with EPA on SOW and ASA
Mar 2015	BOD directs staff to negotiate oversight agreement with EPA	April 2016	OCWD and Northrop complete common consultant interviews and agree on recommendations
Sept 2015	EPA formally assumes regulatory oversight	May 2016	Staff submits pre-applications for Prop 1 grant funding of North Basin cleanup
Oct 2015	Staff initiated early action on EW-1	June 2016	OCWD and EPA finalize SOW and ASA negotiations
Dec 2015	EPA sends invitation letter to PIPs and presents themselves before OCWD Board		
Jan 2016	OCWD invites PIPs to collaborate on RI/FS		



# Statement of Work

- A negotiated RI/FS scope
  - EPA initially proposed 42 monitoring wells
  - OCWD initially proposed 6 monitoring wells
  - Finally agreed on 14 monitoring wells
- Limited to a specific objective and geographic boundary

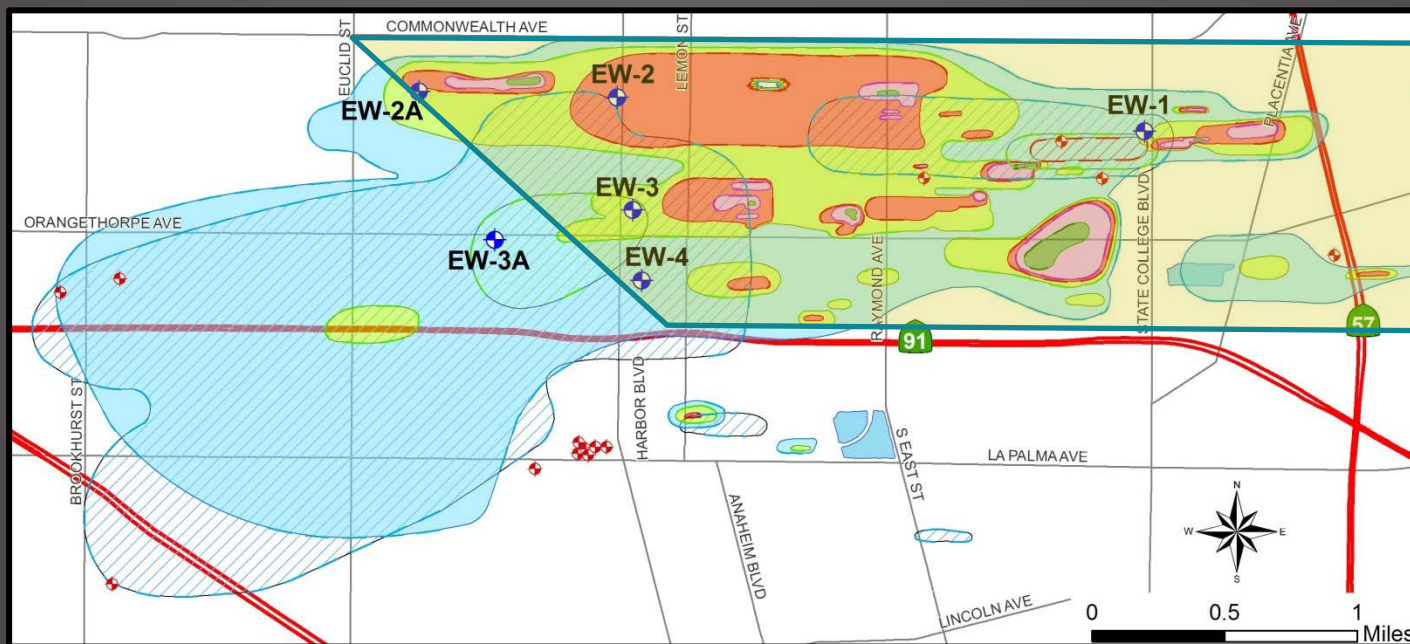


# Statement of Work Objective

*“The Settlement Agreement requires OCWD to conduct a Remedial Investigation and Feasibility Study (RI/FS) to support the development of an interim groundwater remedy to hydraulically contain contaminated groundwater originating from the majority of known or suspected sources in the Study Area , and to further characterize the nature and extent of contamination in the Study Area”*



# Interim Remedy Target Area





# Statement of Work Cost Estimate and Schedule

- Cost estimate: \$4,000,000
- Schedule: Approximately two years
- Costs are likely to be shared with willing PRP's
- OCWD share = 50%, and possibly less

SOW Cost Estimate Summary				
	SES	B&C	Other	Total
Finalize Negotiation of SOW	12,634	1,352		13,986
Develop Site and Remedy Hypotheses	74,469	7,528		81,997
Data Base Setup, Management and Maintenance	35,660	36,416		72,076
Notification of Personnel, & Submittal of QMP (SOW Section 1.4)	1,612	1,888		3,500
Monthly Progress Reports (1.5.1)	30,000	72,000		102,000
Progress Meetings and Documentation of Critical Decisions (1.5.2)	35,000	96,928		131,928
Reporting During Field Efforts (1.5.3)	5,544	11,328		16,872
RI/FS Work Plan (3.1)	33,012	74,278		107,290
SAP and HSP for RI Fieldwork (3.2)	3,465	35,820		39,285
RI Fieldwork (3.3)	22,381	268,574		290,955
Groundwater Flow Modeling Plan (3.4)	19,295	3,696	20,000	42,991
Groundwater Flow Modeling (3.5)	25,110	5,544	70,000	100,654
Groundwater Flow Modeling Report (3.6)	10,746	3,696	60,000	74,442
RI Report (3.7)	41,000	82,000		123,000
Remedial Alternatives Screening TM (3.8)	36,221	18,640		54,861
Remedial Alternatives Evaluation TM (3.9)	77,851	27,800		105,651
ARARs TM (3.10)	3,550	11,392		14,942
Risk Assessment TM (3.11)	6,672	42,272		48,944
FS Report (3.12)	103,977	68,200		172,177
Community Involvement Activities (3.13)	53,596	6,832		60,428
Monitoring Well Construction Cost Estimate			1,192,400	1,192,400
Well monitoring			61,000	61,000
Treatability study			27,000	27,000
Pilot testing			171,000	171,000
Regulatory Review			200,000	200,000
Contingency for unknowns			690,621	690,621
<b>Total Estimate</b>	<b>\$ 631,795</b>	<b>\$ 876,184</b>	<b>\$ 2,492,021</b>	<b>\$ 4,000,000</b>



# Legal Commitments

- Typical EPA Administrative Order converted into an “Administrative Settlement Agreement” (ASA)
- Scope is limited to RI/FS for Interim Remedy
- Work will be compliant with NCP
- Two-party agreement: EPA and OCWD
- Includes stipulated penalties







# Limited Scope of Work

- OCWD obligations end upon completion of the RI/FS to support an Interim Remedy - does not include remediation
- OCWD is not, and will not be legally considered a PRP as a result of signing this agreement
- This agreement does not preclude OCWD from voluntarily moving forward with remediation, such as with EW-1
- EPA will propose and then select the interim remedy following completion the FS



# Work will be NCP Compliant

- Work will be performed in accordance with Board's August 2014 groundwater quality protection policy
- NCP compliance and EPA approval of work product preserves legal options for future cost recovery and/or EPA enforcement orders, if needed in the future.
- Considering the importance of the groundwater resource and the significant life cycle cost of remediation, it is in OCWD's and the PRP's best interest to conduct the RI/FS.



# Two-Party Agreement

- Although many were invited by EPA to enter into a consent agreement, only OCWD responded
- Northrop supports OCWD's efforts and is participating by selection of common consultants and by sharing in the RI/FS costs
- Northrop has taken the lead in recruiting other willing PRPs to participate in similar fashion



# Stipulated Penalties

- Two types of penalties:
  - Liquidated damage-type penalties up to \$1,000 per day for late deliverables
  - One time takeover penalty of \$50,000 if OCWD abandons the RI/FS work and EPA conducts the work
- Penalties unlikely considering OCWD's commitment to get the work done, PRP partner willing to share costs, and preference to avoid NPL listing



# Recommendation

*Authorize General Manager to negotiate the final terms of the Administrative Settlement Agreement and execute, subject to approval as to form by legal counsel, committing the District to perform the Remedial Investigation & Feasibility Study (RI/FS) Statement of Work under Environmental Protection Agency oversight.*



End of Presentation



# North Basin – Agreements with Consultants to Perform RI/FS

Board of Directors

June 15, 2016



# Background

- Kennedy/Jenks is currently tasked with the RI/FS following NCP protocol
- The RI/FS scope has changed following the arrival of EPA
- Northrop Grumman has offered to join with OCWD to complete the RI/FS in conformance with the EPA/OCWD Administrative Settlement Agreement (ASA) and attached Statement of Work (SOW)





# Mutual Consultant Selection

- Two firms selected to conduct RI/FS
- Northrop & OCWD agree to 50:50 split of costs
- Additional PRPs invited to participate at equal shares

Ranking Criteria
NCP Process Experience
RI/FS Experience
CERCLA Experience
Relevant Project Experience
Resource Allocation

Consulting Firms Interviewed	
Firm	Ranking
SES	176
Brown & Caldwell	173
AECOM	173
Roux & Associates	165
Murex	140



# Budget Estimate

- Total cost estimate for RI/FS consulting services: SES, B&C & Intera (groundwater modeler): \$1,613,000
- Costs in line with OCWD's earlier independent estimate
- OCWD's 50% share: \$806,341
- OCWD & Northrop to negotiate costs; final costs could be lower

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ARARs TM (3.10)	3,550	11,392		14,942
Risk Assessment TM (3.11)	6,672	42,272		48,944
FS Report (3.12)	103,977	68,200		172,177
Community Involvement Activities (3.13)	8,300	6,832		15,132
<b>Total Estimate</b>	<b>\$ 586,499</b>	<b>\$ 876,184</b>	<b>\$ 150,000</b>	<b>\$ 1,612,683</b>



# Recommendation

*Authorize General Manager to negotiate and execute Agreements with Senior Environmental Strategists (SES) and Brown & Caldwell (B&C) for an amount not to exceed \$806,341 (50% of \$1,612,683) for the performance of a Remedial Investigation and Feasibility Study (RI/FS) at the North Basin, with the balance being paid by Northrop.*