PUBLIC RESOURCES CODE, DIVISION 22.9
SAN DIEGO RIVER CONSERVANCY

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

32630. Short Title

This division shall be known, and may be cited, as the San Diego River Conservancy Act.

32631. Legislative findings, declaration and intent

(a) The San Diego River is a natural, historic, and recreational resource in the heart of San Diego. From its headwaters near the town of Julian in east San Diego County, it runs 52 miles through Mission Valley and the first settlement in California at Old Town San Diego before it empties into the Pacific Ocean at Ocean Beach. The river has been subjected to intense development in some parts; it runs through one of San Diego's most populated neighborhoods and is in need of restoration, conservation, and enhancement all along its length. The area presents excellent opportunities for recreation, scientific research, historic preservation of the first aqueduct in the United States, and educational and cultural activities, of value to California and the nation. Reestablishing the cultural and historic connections between the San Diego River, Old Town San Diego State Historic Park, the Military Presidio, and the Kumeyaay Nation will provide the public with the opportunity to appreciate the state's historic beginnings.

(b) Given the opportunities available, the state recognizes the importance of holding this land in trust to be preserved and enhanced for the enjoyment of present and future generations.

(c) The San Diego River Conservancy has developed a Five Year Strategic and Infrastructure Plan which has been endorsed by its board of directors, as well as by the San Diego River Parkway Coalition, representing diverse state and local interests. The strategic plan is consistent with the San Diego River Parkway Concept Plan and outlines and establishes four programmatic areas: land conservation; recreation and education; natural and cultural resources preservation and restoration; and, water quality and natural flood conveyance.

32632. Definitions

For the purposes of this division, the following terms have the following meanings:

(a) "Conservancy" means the San Diego River Conservancy established by this division.

(b) "Fund" means the San Diego River Conservancy Fund established pursuant to Section 32657.

(c) "Governing board" means the governing board of the conservancy.

(d) "Historic flumes" means both of the following:

(1) The Padre Dam flume built by Native Americans along the San Diego River to convey water from the Mission Dam to the Mission San Diego de Alcala in the early 1800s.

(2) The flume built by the San Diego Flume Company in the late 1880s to convey water from a diverting dam on the upper San Diego River to the eastern edge of the City of San Diego.

(e) "Local public agency" means a city, county, district, or joint powers agency.

(f) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501(c)(3) of the Internal Revenue Code, as amended, and that has among its principal charitable purposes the preservation of land for scientific, historic, educational, recreational, scenic, or open-space opportunities, the protection of the natural environment, or preservation or enhancement of wildlife.

(g) "San Diego River area" or "area" means those lands or other areas that are donated to, or otherwise acquired by, or operated by, the conservancy, which are located within one-half mile on either side of the thread of the river and its tributaries including the historic flumes emanating from the river, from its headwaters near Julian to the Pacific Ocean at Dog Beach in San Diego, and other properties within the watershed of the San Diego River that meet the intent of this division as approved on a case-by-case basis by a two-thirds majority vote of the governing board.

CHAPTER 2. THE SAN DIEGO RIVER CONSERVANCY

32633. Establishment within the Resources Agency; purposes

There is in the Resources Agency, the San Diego River Conservancy, which is created for the following purposes:

(a) To acquire and manage public lands within the San Diego River area, and to provide recreational opportunities, open space, wildlife habitat and species restoration and protection, wetland protection and restoration, protection of historical and cultural resources, and protection, maintenance and improvements of the quality of the waters in the San Diego River and its watershed, its tributaries and historic flumes emanating from the river for all beneficial uses, lands for educational uses within the area, and natural floodwater conveyance.

(b) To provide for the public's enjoyment, and to enhance the recreational and educational experience and historic interpretation on public lands in the territory in a manner consistent with the protection of land and natural resources, as well as economic resources, in the area.

32634. Board membership; term of office; termination

(a) The governing board of the conservancy shall consist of 11 voting members and two nonvoting members.

(b) The voting members of the board shall consist of the following:

(1) The Secretary of the Resources Agency, or his or her designee.

(2) The Director of Finance, or his or her designee.

(3) The Director of Parks and Recreation, or his or her designee.

(4) Five members of the public at large, three of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, and one of whom shall be appointed by the Speaker of the Assembly.

(5) The Mayor of San Diego.

(6) One member of the City Council of San Diego, elected by a majority of the membership of the council.

(7) One member of the Board of Supervisors of the County of San Diego, whose district includes the preponderance of the San Diego River watershed.

(c) The two nonvoting members shall consist of the following:

(1) The Executive Director of the Wildlife Conservation Board, or his or her designee.

(2) A representative selected by the San Diego Regional Water Quality Control Board.

(d) Two of the three initial appointments by the Governor pursuant to paragraph (4) of subdivision (b) shall be for three-year terms and the third appointment shall be for a two-year term. All subsequent appointments shall be for four-year terms.

(e) No person shall continue as a member of the governing board if that person ceases to hold the office that qualifies that person for membership. Upon the occurrence of those events, the person's membership on the governing board shall automatically terminate.

32635. Compensation; reimbursement for expenses

The members of the conservancy that are not full-time public employees may be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per regular meeting, not to exceed 12 regular meetings a year. All members of the conservancy may be reimbursed the actual amount of the reasonable and necessary expenditures incurred in attending meetings of the conservancy and carrying out the duties of their office.

32636. Chairperson and vice chairperson; term of office

The governing board shall elect from its own members a chairperson and vice chairperson, whose terms of office shall be two years, and who may serve more than one term. In the event of a vacancy, a new chairperson or vice chairperson may be elected by the governing body before the expiration of the two-year term to fill out the remainder of that two-year term.

32637. Quorum

(a) A majority of the total voting membership of the governing body shall constitute a quorum for the transaction of the business of the conservancy. If a quorum is present, a majority vote of the members present is sufficient to transact the business of the governing board.

32638. Rules and procedures
The governing board shall adopt its own rules and procedures necessary to conduct its business.

CHAPTER 3. POWERS AND DUTIES

32639. Offices and equipment
The conservancy shall establish and maintain an office within the area. The conservancy may rent or own real and personal property and equipment pursuant to applicable statutes and regulations. The conservancy may not levy a tax or regulate land use.

32640. Open meetings
All meetings of the governing board are subject to the Bagley-Keene Open Meeting Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

32641. Executive officer; qualifications and appointment; staffing
The governing body shall determine the qualification of, and shall appoint, the executive officer of the conservancy and shall employ other necessary staff persons to execute the powers and duties of the conservancy in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 1 of the Government Code).

32642. Specific powers; decision-making process
The conservancy may do any of the following to assist in the decision-making process for the purposes of this division:
(a) Establish advisory boards or committees.
(b) Engage in public outreach.

32643. Specific powers; services
The conservancy may do both of the following to provide necessary services:
(a) Select and hire private consultants or contractors.
(b) Enter into memorandums of understanding with state and local public agencies.

32644. Jurisdiction
The jurisdiction of the conservancy is limited to the San Diego River Area.

32645. Real property or interests in real property
The conservancy may take any of the following actions for the purposes of this division:
(a) Select and acquire real property or interests in real property in the name of the state pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).
(b) Acquire interests in land by various means, including, but not limited to, land exchanges, easements, development rights, life estates, leases, and leaseback agreements.
(c) Accept and hold real property or an interest in real property that is acquired through gift, exchange, donation, or dedication.
(d) Local public agencies shall retain exclusive authority over all zoning or land use regulations within their jurisdiction.

32646. Acquisition of public lands; right of first refusal
Notwithstanding any other provision of law, the conservancy has the first right of refusal to acquire any public lands that are suitable for park and open space within the conservancy's

jurisdiction when those lands become available. The conservancy may not exercise the power of eminent domain.

32647. Agreements with other public agencies

The conservancy may designate or enter into an agreement with any public agency to provide real estate services, and may assign authority to execute agreements for the acquisition or disposal of real property or interests in real property.

32648. Limitation upon options to purchase land or lesser interests

Notwithstanding any other provision of law, the conservancy may not enter into an option to purchase land in fee simple or a lesser interest for an amount in excess of three hundred thousand dollars ($300,000).

32649. Grants

(a) The conservancy may award grants to any local public agency, state agency, and nonprofit organization consistent with the purposes of this division.

(b) A grant from the conservancy to a nonprofit organization for the acquisition of real property or an interest in real property is subject to all of the following conditions:

(1) The purchase price of any interest in land acquired may not exceed fair market value, as established by an appraisal that is approved by the conservancy.

(2) The conservancy shall approve the terms under which the interest in land is acquired.

(3) An interest in land acquired through the use of a grant may not be used as security for any debt to be incurred by the nonprofit organization.

(4) A transfer of land acquired through the use of a grant is subject to the approval of the conservancy and the execution of an agreement between the conservancy and the transferee sufficient to protect the interest of the people of the state.

(5) The state shall have the right of entry and power of termination over any interest in real property acquired with state funds, and may exercise those rights if any material term or condition of the grant is violated.

(6) If the nonprofit organization ceases to exist for any reason, the title to all interests in real property acquired with state funds shall immediately vest in the state, except that, prior to that termination, any other public agency or nonprofit organization may receive, upon approval by the conservancy, title to all or a portion of that interest, by recording a written acceptance of title and the conservancy's written approval with the county recorder's office of the county with jurisdiction over the property.

(c) Any deed or other instrument of conveyance evidencing the final acquisition of real property by a nonprofit organization pursuant to this section shall be recorded with the county recorder's office in the county with jurisdiction over the property, and shall detail the states right of entry and power of termination of any interest in the property.

32650. Agreements with other agencies and entities relating to property interests acquired under the division

Notwithstanding any other provision of law, the conservancy may lease, rent, sell, exchange, or otherwise transfer any real property or interest in real property that is acquired under this division to a local public agency, state agency, federal agency, nonprofit organization, individual, corporate entity, or partnership for management purposes pursuant to terms and conditions approved by the conservancy. The conservancy may request the Director of General Services to undertake these actions on its behalf.

32651. Actions in promotion of division purposes

The conservancy may take any of the following actions for the purposes of this division:

(a) Initiate, negotiate, and participate in agreements for the management of land under its ownership or control with a local public agency, state agency, federal agency, nonprofit

organization, individual, corporate entity, and partnership, and enter into any other agreement authorized by state or federal law.

(b) Improve and develop lands for the purpose of protecting the natural environment or otherwise meeting the purposes of this division.

(c) Merge or split parcels, adjust boundary lines, or take similar actions as part of the acquisition of land, or as needed in order to facilitate the management of land under its ownership or control.

(d) Fix and collect fees for any service rendered by the conservancy. The amount of the fee may not exceed the reasonable cost of providing the service rendered by the conservancy.

32652. Receipt of funds

The conservancy may receive any gift, donation, subvention, grant, rent, royalty, and other financial aid and funds from any private or public source, or both.

32653. Actions in promotion of certain policies

(a) The conservancy may develop and coordinate an integrated program of resource stewardship to manage the entire San Diego River Area in a manner that balances the recreational needs of the surrounding communities with strong protection of the area's natural resources.

(b) The conservancy shall establish policies and priorities within the San Diego River Area, and conduct any necessary planning activities in accordance with the purposes of this division.

(c) The conservancy shall establish priorities to be given to projects that create or enhance opportunities that provide recreation, aesthetic improvement, wildlife habitat, wetlands protection, water quality, and natural flood control in the San Diego River Area.

32654. Actions in promotion of policies in degraded areas

(a) The conservancy, in consultation with other public agencies with appropriate jurisdiction and expertise, may do all of the following for any degraded area:

(1) Undertake site improvement projects.

(2) Regulate public access.

(3) Provide for restoration and rehabilitation.

(b) The conservancy may upgrade deteriorating facilities, and construct new facilities as needed for outdoor recreation, nature appreciation and interpretation, and natural resource protection.

32655. Express and implied rights and powers

The conservancy has, and may exercise, all rights and powers, expressed or implied, necessary to carry out the purposes of this division, except as otherwise provided.

32656. Powers; sue and be sued

The conservancy may sue and be sued.

CHAPTER 4. SAN DIEGO RIVER CONSERVANCY FUND

32657. Creation; funding

The San Diego River Conservancy Fund is hereby created. Moneys in the fund shall be available, upon appropriation, for the purposes of this division.

32658. Proceeds or income

Proceeds or income from any lease, rental, sale, exchange, transfer of land, or interest in real property shall be deposited in the fund and shall be available for expenditure for the purposes of this division, upon appropriation by the Legislature.

CHAPTER 5. REPEAL

32661. Operation of certain provisions; duration of division

This division shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.