

Tab 2

METROPOLITAN WATER DISTRICT OF SALT LAKE & SANDY

RESOLUTION NO. 1933

WHEREAS, the Metropolitan Water District of Salt Lake & Sandy (“District”) owns 61,900 shares of Provo River Water Users Association (“Association”) stock, which is among the most important assets of the District; and

WHEREAS, the Association directors are elected each year at the annual members’ meeting;
and

WHEREAS, the Association’s annual members’ meeting is scheduled for April 25, 2024;
and

WHEREAS, the Board of Trustees of the District has determined that it is in the best interests of the District for this District to formally appoint a representative and proxy to vote the District’s Association shares at the 2024 annual Association members’ meeting, according to the written instructions contained in this Resolution.

NOW THEREFORE it is hereby **RESOLVED**, that the Board of Trustees hereby appoints Annalee Munsey, the District’s General Manager (or a representative of the District as selected by Annalee Munsey) as the District’s representative and proxy for purposes of voting all Association shares owned by the District on the issues to be voted by members of the Association at the 2024 annual members’ meeting. Regarding the election of Association directors, the District’s representative and proxy is directed to vote all Association shares of the District as directed in this Resolution.

Section 3.2 of the Bylaws of the Provo River Water Users Association provides that Class A members of the Association are those members “each of whom owns 10,000 or more shares in single ownership.” The Class A members consist of just two members, the District, which holds 61,900 shares, and the Provo Reservoir Water Users Company (“PRWUCo.”), which holds 16,000 shares. Section 3.2.1 of the Bylaws of the Provo River Water Users Association further provides that the “Class “A” voting group shall elect one (1) director for each 10,000 shares of stock owned by members of this group, and also one (1) director for any additional major fraction (more than half or 5,001 or more) of 10,000 shares, out of the total of eleven (11) directors provided for in the Articles of Incorporation, provided, that each Class “A” member shall be permitted to elect at least one (1) director.” Therefore, the Class A members as a group elect eight (8) of eleven (11) Association directors, except that each Class A member has the right to name at least one director as a matter of right. We instruct and direct our representative and proxy to nominate and elect the following as Class A directors of the Association in addition to the one director to be named as a matter of right by PRWUCo.:

1. Laura Briefer
2. Joan Degiorgio

3. Annalee Munsey
4. Tom Godfrey
5. John Kirkham
6. Don Milne
7. Tom Ward

If the representative and proxy of the District is called upon to designate one of the above seven nominees as a director who is named as a matter of right by this District, then Annalee Munsey shall be so designated.

In addition, Section 3.2 of the Bylaws of the Provo River Water Users Association provides that Class B members “shall consist of members each of whom owns less than 10,000 shares.” Section 3.2.2 of the Bylaws of the Provo River Water Users Association further provides that “Class “B” members shall as a group elect one (1) director for each 10,000 shares owned by members of this class, and one (1) director for any additional major fraction (more than half, or 5001 or more shares) of 10,000 shares, out of the total of eleven (11) directors provided for in the Articles of Incorporation.” There are two Association directors elected by Class B members.

Section 3.2.3 of the Bylaws of the Provo River Water Users Association further provides that “If the owners of stock in the voting groups as above designated do not hold sufficient stock to entitle them to elect in the aggregate a full board of eleven (11) directors as herein provided by following the procedures stated above, then the additional directors required to make up the number provided for shall be elected as directors at large by a majority of all the stock of both voting groups represented at the annual meeting of the members.” There is, therefore, one (1) Association director at large. We instruct and direct our representative and proxy to nominate and elect the following as the at large director of the Association:

8. Wayne Winsor

This RESOLUTION adopted by a vote of the Board of Trustees of the Metropolitan Water District of Salt Lake & Sandy on the 15th day of April, 2024.

Patricia Comarell
Cindy Cromer
Joan Degiorgio
Tom Godfrey
John Kirkham
John H. Mabey, Jr.
Donald Y. Milne

Tom Godfrey
Chair of the Board of Trustees

Metropolitan Water District of Salt Lake & Sandy
Board Meeting Information
Last Update: April 4, 2024

Agenda Item: Consider terminating Agreement Between Metropolitan Water District of Salt Lake & Sandy and Pleasant Grove City for the Monitoring of Water Quality and the Carriage of Flood Flows of Grove Creek and Battle Creek in the Provo Reservoir Canal Enclosure Project pursuant to Paragraph 7(b) termination provision requiring at least fifteen (15) years notice without cause

Background: During the Work Session on January 22, 2024, staff presented a history of the Pleasant Grove City and the MWDSLs agreement for the monitoring of water quality and the carriage of flood flows of Grove Creek and Battle Creek in the Provo River Aqueduct (signed 2/13/12). The board discussed the intention of the agreement and Pleasant Grove's infrastructure capacity. The board requested that staff gather data regarding Pleasant Grove's water to aid in a decision regarding the potential termination of the agreement.

Committee Activity: The Executive Committee discussed this item on April 2, 2024.

Recommendation: The Executive Committee recommends terminating Agreement Between Metropolitan Water District of Salt Lake & Sandy and Pleasant Grove City for the Monitoring of Water Quality and the Carriage of Flood Flows of Grove Creek and Battle Creek in the Provo Reservoir Canal Enclosure Project pursuant to Paragraph 7(b) termination provision requiring at least fifteen (15) years notice without cause.

Attachments:

- Legal Counsel's memorandum regarding Carriage of Flows of Grove and Battle Creek in the PRA
- Summary of Pleasant Grove Creeks Water Quality and Diversion through Water Year 2023
- Agreement between Metropolitan Water District of Salt Lake & Sandy and Pleasant Grove City for the Monitoring of Water Quality and the Carriage of Flood Flows of Grove Creek and Battle Creek in the Provo Reservoir Canal Enclosure Project



Memorandum

File No. 8016002.68

TO: Annalee Munsey & Board of Trustees
FROM: Dani Cepernich & Shawn Draney
RE: Agreement re: Carriage of Flows of Grove and Battle Creek in the PRA
DATE: April 3, 2024

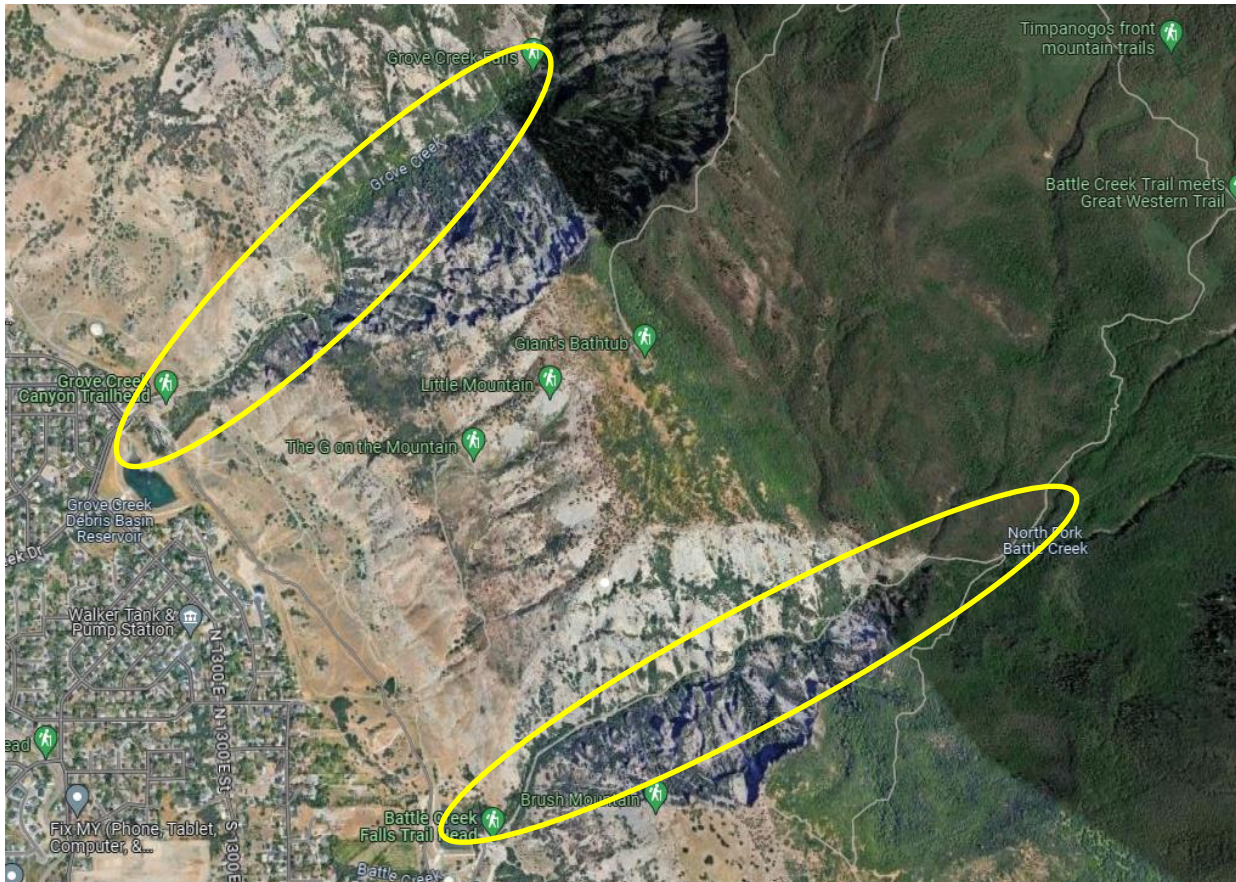
BACKGROUND

As previously discussed, Pleasant Grove City currently has the right to introduce excess flows from Grove Creek and/or Battle Creek into the Provo River Aqueduct (PRA) under the February 13, 2012, Agreement Between Metropolitan Water District of Salt Lake & Sandy and Pleasant Grove City for the Monitoring of Water Quality and the Carriage of Flood Flows of Grove Creek and Battle Creek in the Provo Reservoir Canal Enclosure Project.

In 2004, Provo River Water Users Association obtained Congressional authorization for the Secretary of the Interior to transfer title of the Provo Reservoir Canal to the Association through the Provo River Project Transfer Act (Title Transfer Act). The Title Transfer Act required an agreement among the District, Central Utah Water Conservancy District, Jordan Valley Water Conservancy District, and the Association. In February 2010, those entities, along with Provo Reservoir Water Users Company, entered into what is known as the “Master Agreement.” The Master Agreement expressly limits sources of water carried in the Provo Reservoir Enclosure Project (PRECP), which resulted in construction of the PRA, unless all of the parties to that agreement consent. (Because the Agreement uses the term PRECP, this memo does as well, instead of the PRA.)



During construction of the PRECP, a dispute arose over the introduction of water from Grove Creek and Battle Creek (together, the Creeks) into the PRECP. The location of the Creeks is shown roughly below, with Grove Creek to the north and Battle Creek to the south:



In most years, the peak combined flows of the Creeks do not exceed the combined available capacities of the Pleasant Grove Irrigation Company system and Pleasant Grove's storm water system. Occasionally, however, the peak combined flows of Creeks does exceed the combined available capacities. The natural waterways for these two creeks to Utah Lake were obliterated by development over time, and Pleasant Grove's boundaries do not extend to Utah Lake. As a result, for some time prior the PRECP,



excess flows had been directed down sand-bagged PG streets, and later via temporary pipes laid on Pleasant Grove streets, into the then-open Provo Reservoir Canal.

As part of construction of the PRECP, Pleasant Grove wanted to have the ability to dump excess flows from the Creek into the PRECP. It indicated that it would be a burden—both financially and from an engineering perspective—to build additional storm water facilities to carry those excess flows to Utah Lake. This was particularly true, from the City’s perspective, without appropriate lead time for planning and financing.

The District had a strong preference *not* to allow Pleasant Grove to utilize PRECP capacity for the excess flows from the Creek, as doing so would diminish the operational flexibility of both the District and the Association. It also had concerns about water quality degradation and compliance with applicable state and federal laws and regulations.

Ultimately, to resolve the dispute, the District and Pleasant Grove entered into the Agreement. A copy is included in the Board packet.

The Agreement has now been in place for just over twelve years, having been executed on February 13, 2012. Staff has provided a summary of the diversion of Grove and Battle Creek water into the PRECP and associated water quality for the three years in which Creek water has been introduced into the PRECP under the Agreement during that twelve-year period. A copy is included in the Board packet.

PROVISIONS REGARDING TERMINATION

The Agreement contains two provisions that allow the District to terminate the Agreement: Paragraphs 7(b) and (c).

Under Paragraph 7(b), the District can terminate the Agreement “*without cause, in its sole and absolute discretion*” by providing at least 15 years prior written notice. Once the District provides notice



under that provision, Pleasant Grove must begin to implement improvements to its storm water system or identify alternative methods to manage excess flows from the Creeks. It has to provide annual written reports to the District regarding its progress. So long as Pleasant Grove is making reasonable progress during the 15 year period—as determined by the District and Pleasant Grove, jointly—then Pleasant Grove can continue to use the PRECP for excess flows from the Creeks as provided in the Agreement. If, however, during that period, Pleasant Grove is *not* making reasonable progress, Pleasant Grove “agree[d] and acknowledge[d] that the lack of progress is deemed a public threat” and the Agreement “will be terminated pursuant to paragraph 7.c.”

The following is the entirety of Paragraph 7(b):

b. Fifteen Year Notice Termination Without Cause. Upon at least fifteen (15) years prior written notice, MWDSLS may terminate this Agreement without cause, in its sole and absolute discretion. If notice is given under this contract clause, PG will begin to implement improvements to the PG storm water system or provide information to MWDSLS regarding any other alternative methods PG decides to use in order to adequately manage the excess flows. PG will provide a written annual report to MWDSLS and PRWUA regarding the progress. During the 15 year notice period and as long as reasonable progress, as determined jointly by PG and MWDSLS, is being made regarding improvements to the PG storm water system, PG may continue to use the PRCEP for excess flows as outlined in this agreement. If reasonable progress is not being made during the 15 year notice period, PG agrees and acknowledges that the lack of progress is deemed a public threat and this agreement will be terminated pursuant to paragraph 7.c. In this event, PG agrees to defend and indemnify MWDSLS and PRWUA as more specifically stated in paragraph 7.g.

Paragraph 7(c) provides for more immediate termination of the Agreement. The District can terminate the Agreement “as determined to be reasonable and necessary to avoid a material threat to the health, safety and welfare of the public.” It must provide notice that is reasonable under the circumstances. Both of these determinations—the material threat to health, safety and welfare of the public, and the notice that is reasonable—must be made by the Board in a public meeting where Pleasant Grove is invited to attend and give comment.



The following is the entirety of Paragraph 7(c):

c. **Termination Upon Finding of Public Threat.** MWDSLS may terminate this Agreement as determined to be reasonable and necessary to avoid a material threat to the health, safety and welfare of the public, after notice which is reasonable under the circumstances, all as determined in good faith by the MWDSLS Board of Trustees in a public meeting where PG is invited to attend and give comment.

If the Board determines to terminate the Agreement, it may do so under Paragraph 7(b) “without cause, in its sole and absolute discretion.” The District would then give Pleasant Grove notice that the Agreement will be terminated in 15 years from the date of the notice.

If the Board determines to provide the 15 years’ notice of termination, the terms of the Agreement would continue to apply to Pleasant Grove’s use of the PRECP during that period. This includes the following:

- **Excess Flows Only** – Only excess flows are permitted, which requires that Pleasant Grove first make reasonable efforts to maximize the carriage of flows from the Creeks in the then-available combined capacities of the Pleasant Grove Irrigation system, the Pleasant Grove storm system, and the Pleasant Grove irrigation system to be maintained. (¶ 2)
- **Highest Quality Water** – If possible, Pleasant Grove is required to put higher quality water into the PRECP and lower quality water into the Pleasant Grove Irrigation system, the Pleasant Grove storm system, and the Pleasant Grove irrigation system. (¶ 2)
- **Tiered Use of Capacity** – Pleasant Grove is required to use the PRECP capacity in 4 specifically-described tiers. (¶ 3)
- **Maintain Capacity of Existing Systems** – Pleasant Grove is required to cause the combined capacities of the Pleasant Grove Irrigation system, the Pleasant Grove storm system, and the Pleasant Grove irrigation system to be maintained. (¶ 2)



- **Limitation on New Projects** – Pleasant Grove is prohibited from conducting or allowing any new projects above the retention/settlement basins that may increase the turbidity of water introduced into the PRECP. (¶ 2)
- **Connection to PRECP** – Design, construct, and maintain a piped connection from the retention/settlement basins near the mouths of the canyons to the PRECP. (¶ 1(a))
 - The valves required to introduce excess Creek flows are to be controlled exclusively by the Association (¶ 1(b))
 - Reimburse the Association for reasonable repairs to the PRECP at the point of connection with Pleasant Grove’s system (¶ 1(f))
- **Water Quality**
 - Provide real-time and recorded metering to monitor compliance with the Agreement (¶ 1(b))
 - Screen Grove Creek and Battle Creek water as directed by the District before it is introduced into the PRECP connection, with a goal of achieving “water quality consistent with the water being introduced into PRECP from the Murdock Diversion.” (¶ 1(c))
 - Develop and implement a source protection plan that is approved by the District and Utah Division of Drinking Water or other state or federal agencies, as required by law. (¶ 4(a))
 - Must include signage, education, and reasonable controls. Could include exclusion of horses, dogs, or overnight camping in the future as reasonably determined by the District after consultation with Pleasant Grove in order to address serious biological contamination.
 - Goals include (i) stream protection zones of a distance from the stream available to cities of the first class, which Pleasant Grove must diligently pursue; and (ii)



maintaining water quality at least of the same quality as to each constituent of concern as Provo River water at the Murdock Diversion.

- Gather samples at Pleasant Grove’s cost from the watersheds and Provo River at the Murdock Diversion consistent with a protocol established by the District. The District is responsible for lab costs. (¶ 4(b))
- **Protection of Utah Lake** – At the Association’s sole discretion, excess water from the Creeks introduced into the PRECP by Pleasant Grove can be discharged into the American Fork River and/or Dry Creek in order to make Utah Lake whole. Pleasant Grove is solely responsible for the costs of compliance with any laws regarding water rights and discharges. (¶ 5(a))
 - If the excess waters from the Creeks cannot be or is not discharged into the American Fork River or Dry Creek, Pleasant Grove must have in place any approvals required by applicable law. (¶ 5(b))
- **Insurance** – Pleasant Grove must maintain insurance as provided in the Agreement. (¶ 6)
- **Reasonable Progress** – Following a notice of termination in 15 years, Pleasant Grove must “begin to implement improvements to the PG storm water system or provide information to MWDSLs regarding any other alternative methods PG decides to use in order to adequately manage the excess flows.” Pleasant Grove must provide an annual report to the District and the Association regarding the progress. (¶ 7(b))

Summary of Pleasant Grove Creeks Water Quality and Diversion through Water Year 2023

Executive Summary

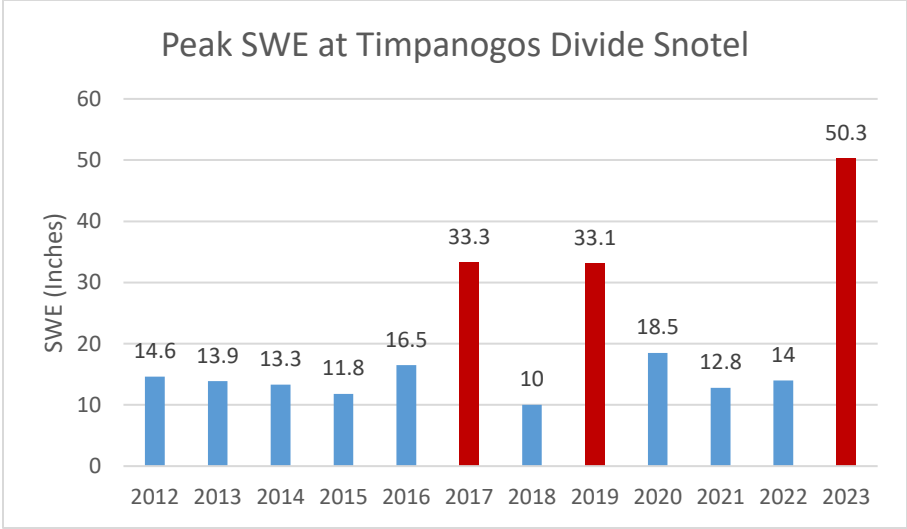
The first five years that the agreement was in place, Battle Creek and Grove Creek (B&G Creeks) diversion into the Provo River Aqueduct (PRA) was not required. Diversion of a small amount of B&G Creek water into the PRA for a short period was required for the first time in 2017. In 2019 and 2023, water was diverted April through October (total volumes of 2,432 acre feet and 3,506 acre feet respectively). When diverted into the PRA B&G Creek water typically accounts for 5 to 10% of the total flow in the PRA with the remaining water coming from the Provo River at the Murdock Diversion or the Utah Lake Drainage Basin Water Delivery System (ULS). There are short periods of time when B&G Creek flow exceeds 10% of the total volume in PRA.

Water quality monitoring has taken place according to the sampling plan in the agreement since 2011. Most of the time, B&G Creeks water quality is similar to Provo River water quality at the diversion into PRA. Elevated levels of several contaminants were noted in 2019. In 2023, in anticipation of the high diversion volumes due to record snowpack, the District increased monitoring frequency and coordination to identify contaminants. Water quality was severely impacted by high runoff with several contaminants reaching the highest levels seen since monitoring started. Dilution with Provo River water, detention in PG facilities, and treatment reduced concentrations of contaminants below levels of concern.

Diversions

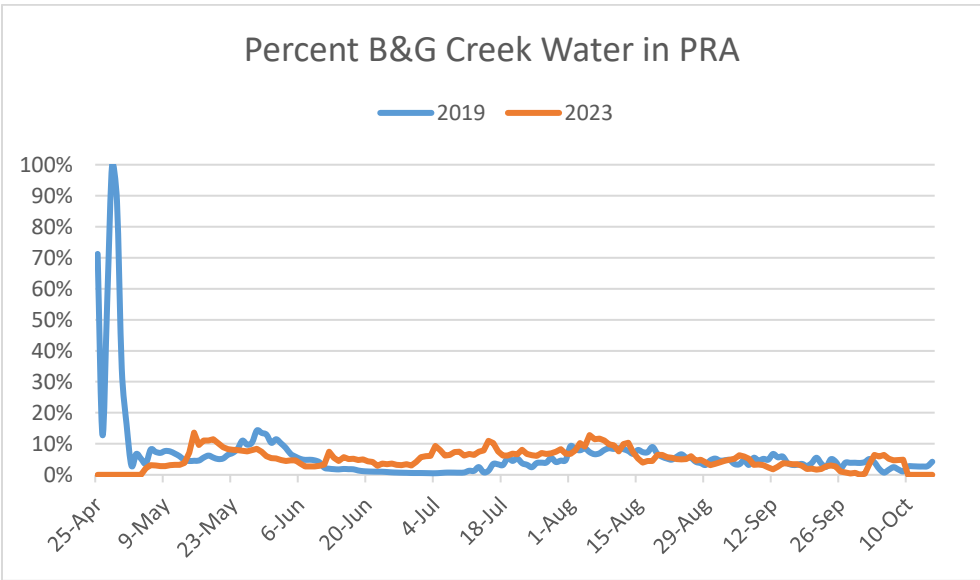
As per agreement, PG can introduce excess flows of B&G Creeks into the PRA when those flows cannot be used or managed within PG's systems. The District has no control over the amount and timing of B&G Creeks diversion into the PRA. The District can change conveyance of water to Point of the Mountain Water Treatment Plant (POMWTP) from the Jordan Aqueduct (JA), instead of the PRA, but this can have additional costs and negative water supply impacts.

The amount of snowpack that the B&G Creek watersheds receive is the primary driver for whether or not diversion into the PRA is required. The best predictor of snowpack in the area is the Timpanogos Divide SNOTEL site. The chart below shows the peak snow water equivalent (SWE) at Timpanogos Divide for the years that the agreement has been in place. Red bars show the years where diversion into the PRA was required.



The average SWE over the agreement period is 20.2 inches. The SWE exceeded the average three times: in 2017, 2019, and 2023. As previously mentioned, diversion of B&G Creek water into the PRA was required in those three years. 2017 and 2019 were very similar in terms of SWE but very little diversion was required in 2017 and significant diversion was required in 2019. One possible explanation for this is a reduction in capacity of the detention basins for B&G Creeks that occurred prior to 2019 in order to meet safety of dam requirements. This suggests that the need to divert water will be more frequent than anticipated in the agreement.

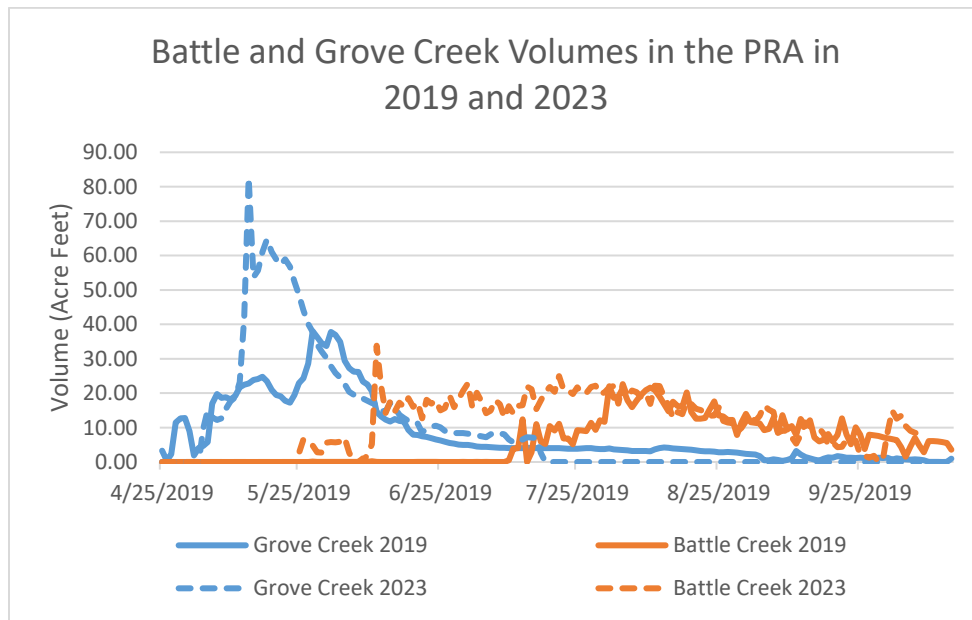
When diversion is required, B&G Creek flows enter the PRA and mix with Provo River water entering the pipe at the Murdock Diversion. The mixed water flows to multiple downstream users at different delivery points. The percentage of B&G Creek flow in the PRA varies depending on the amount of downstream use. During high demand, the percentage of B&G Creeks water is low. Higher percentages occur during low demand. Typically, the percentage is between 5 to 10% of the total flow with higher percentages for brief periods. The chart below shows the percentage of B&G Creek water in the PRA in 2019 and 2023.



The District receives mixed Provo River/B&G Creeks water at POMWTP when PRA is used as the method of conveyance. Jordan Narrows Pump station receives the water if the District is using Provo River Project water to meet delivery obligations. The District’s primary concern is POMWTP since treatment for culinary purposes is required. Jordan Narrows’ deliveries are for irrigation purposes so risk is lower.

In 2019, diversion of Grove Creek started in late April and continued through mid-October. The average volume diverted during that time was 9 acre feet per day. Diversion peaked at 38 acre feet per day on May 28. The total volume diverted for the season was 1,410 acre feet. Battle Creek was diverted into the PRA from July 10 through October 15. Battle Creek averaged 11 acre feet per day during that period with a peak volume of 22 acre feet on August 1st. Total Battle Creek volume diverted was 1,022 acre feet. B&G Creeks averaged 4% of the total flow in PRA during the 2019 POMWTP operating period. The highest percent of B&G Creek water in the PRA when POMWTP was online was 9%.

Grove Creek was the first to require diversion into the PRA again in 2023. Grove Creek diversion started on May 5 and continued through July 18. The average volume diverted during that time was 22 acre feet per day. Diversion peaked at 82.6 acre feet per day on May 14. A total of 1,676 acre feet of Grove Creek water was diverted. Battle Creek diversion started May 26 and continued until the PRA shut down in mid-October. Battle Creek averaged 13 acre feet per day with a peak volume of 34 acre feet on June 11. A total of 1,830 acre feet of Battle Creek water was diverted. B&G Creek water averaged 5% of the total flow in PRA during the POMWTP operating season with a maximum daily percentage of 13%. As expected, 2023 diversion volumes exceeded those in 2019. The chart below compares B&G Creek diversions in 2019 and 2023.



Water Quality

Monitoring of B&G Creeks water quality began in 2011 when the District became aware of PG’s intention to continue to divert water after enclosure of the canal. Monitoring continues through present day and includes 37 contaminants. The contaminants include organic, microbiological, and inorganic

contaminants that have the potential to affect treatment, regulatory compliance, public perception, and public health. The table below shows the sampling plan as presented in the agreement:

<u>Constituent</u>	<u>Frequency (April-September)</u>	<u>Frequency (October-March)</u>
total organic carbon (TOC)	weekly	monthly
pH	weekly	monthly
alkalinity	weekly	monthly
hardness	weekly	monthly
turbidity	weekly	monthly
colilert	weekly	monthly
heterotrophic plate count	weekly	monthly
nitrate	weekly	monthly
nitrite	monthly	monthly
chloride	weekly	monthly
fluoride	monthly	monthly
sulfate	weekly	monthly
ortho-phosphate	monthly	monthly
metals	monthly	monthly
total dissolved solids	monthly	monthly
conductivity	monthly	monthly
giardia	monthly	quarterly
cryptosporidium	monthly	quarterly

Changes to the location, frequency, and constituents may be modified from time to time as reasonably determined by MWDSLs.

PG has requested reduced frequency of sample collection, most recently in January 2019. The District rejected the requests due to poor water quality conditions during high flow years.

Water quality analysis shows that, most of the time, B&G Creek water quality is similar to water quality of the Provo River at the Murdock Diversion and is well below established maximum contaminant levels (MCLs) and secondary MCLs for treated drinking water. The most recent summary of water quality results is included in attachment 1.

Water quality analysis also shows that there are times when B&G Creek water quality is worse than Murdock Diversion water quality and exceeds established regulatory limits and secondary MCLs for treated drinking water. Times of poor water quality are most often associated with high flows in B&G Creeks. High flow periods are also when B&G Creek diversion into the PRA is most likely to occur. As a result, the District receives water from B&G Creeks when water quality is at its worst.

To highlight water quality concerns during diversion years, the historical water quality data set was limited to diversion years (2017, 2019, and 2023) and to the timeframe when diversion has historically occurred (April to October). Data were further limited to eight of the 37 contaminants that are of most concern to the District based on previous results. Those contaminants, and their associated concerns, are:

- Aluminum – EPA’s secondary MCL for aluminum is 50 to 200 ug/L due to discoloration issues. AWWA recommends less than 500 ug/L of aluminum in source water due to possible interference with coagulation.
- Arsenic – EPA’s arsenic MCL is 10 ug/L due to increased cancer and cardiovascular disease risk. Arsenic has MCL goal (MCLG) value (non-enforceable standard) of zero due to the seriousness of negative health impacts of arsenic.

- E. coli – The State of Utah has set water quality standards for E. coli in surface water used for domestic purposes at 208 MPN/100 mL based on a 30-day average with a maximum daily value of 688 MPN/100 mL. E. coli is an indicator of fecal contamination and is used for assessing risk from other human pathogens.
- Iron – EPA’s secondary MCL for iron is 300 ug/L due to discoloration issues, metallic taste, and staining.
- Lead – EPA’s action level for lead is 15 ug/L due to links to developmental delays in children, kidney disease, and high blood pressure. Like arsenic, lead has an MCLG value of zero.
- Manganese – EPA’s secondary MCL for manganese is 50 ug/L due to discoloration issues, metallic taste, and staining.
- TOC - High Total Organic Carbon (TOC) increases formation of Disinfection Byproducts (DBPs). In general, higher TOC requires more coagulant chemical to meet DBP precursor removal requirements and reduce DBP formation potential. DBPs are associated with increased cancer risk, kidney and liver problems, and nervous system issues.
- Turbidity - High turbidity affects treatability of water where higher turbidities require more coagulant chemical. Turbidities exceeding 50 NTU make it difficult to meet water quality goals. At 100 NTU or greater, operators will switch to another source or discontinue treatment to avoid water quality violations and protect public health.

The table below presents a comparison of the average values of the eight parameters of concern for each site during the typical diversion period (April through October):

Average water quality data for wet years (2017, 2019, 2023)

	Battle	Grove	Murdock Diversion
Aluminum	1344.25	159.89	221.04
Arsenic	0.55	0.04	2.17
E. Coli	17.50	108.94	11.34
Iron	1832.38	334.11	318.57
Lead	3.59	0.15	0.20
Manganese	61.51	4.89	30.13
TOC	1.12	1.37	2.38
Turbidity	93.95	15.49	4.09

The comparison shows that Battle Creek average values exceed Murdock Diversion average values for six of the eight highlighted parameters. Average arsenic and TOC values are lower in Battle Creek than at the Murdock Diversion. Grove Creek water quality compares more favorably to Murdock Diversion water quality. Three of the eight parameters are higher for Grove Creek including E. coli, TOC, and turbidity. Battle Creek average values for aluminum, iron, and manganese exceed secondary MCL values. Grove Creek average iron value exceeds the secondary MCL as well.

To further highlight the difference in water quality between B&G Creeks and the Murdock Diversion, and underscore the concern for the District, the same comparison was made using maximum values for the same parameters and timeframe. The results of the comparison are summarized in the table below:

Maximum water quality data for wet years (2017, 2019, 2023)

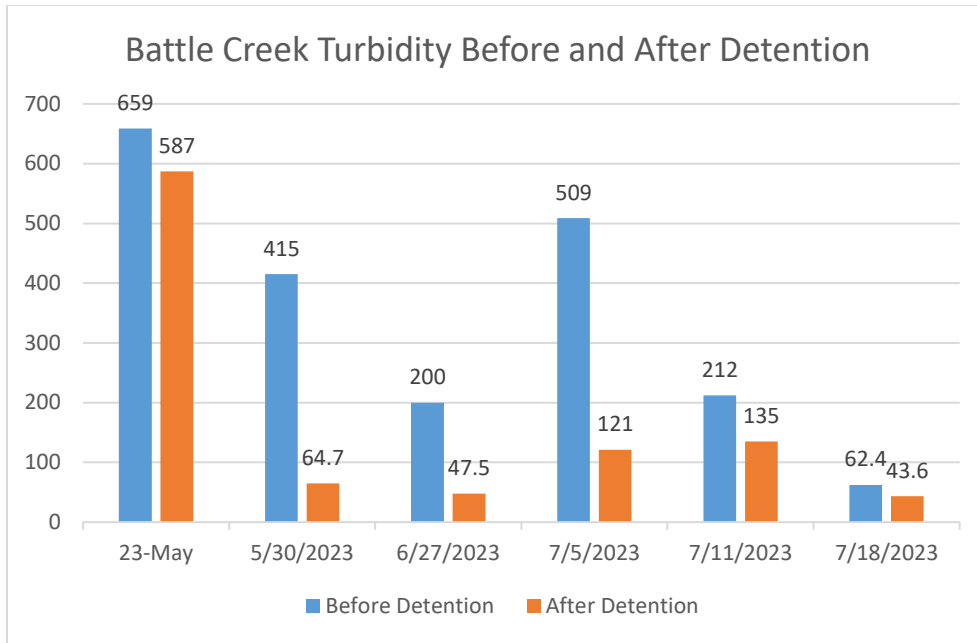
	Battle	Grove	Murdock Diversion
Aluminum	11400.00	2000.00	1200.00
Arsenic	5.20	1.00	2.90
E. Coli	209.80	>2419.60	40.80
Iron	13300.00	2900.00	1210.00
Lead	32.00	2.80	2.00
Manganese	450.00	55.50	71.60
TOC	3.75	4.51	3.13
Turbidity	>1000.00	383.00	39.50

The maximum values for Battle Creek exceed those for the Murdock Diversion for all eight parameters. Aluminum, iron, and manganese maximum values for Battle Creek exceed secondary MCLs, lead exceeds the action limit; and turbidity is above the limit that the District considers treatable. Grove Creek maximum values exceed six of the eight parameters compared to Murdock Diversion maximums. Aluminum, iron, and manganese maximum values for Grove Creek exceed secondary MCLs; E. coli exceeds the daily maximum standard set by the State of Utah, and the maximum turbidity is above the limit that the District considers treatable. Trend charts in attachment 2 compare water quality at each site for the 8 parameters of concern in 2023.

While these levels are concerning, the impact on treated drinking water is, ultimately, what is important. To date, there is no indication that high levels of contaminants in B&G Creeks water has impacted the ability to meet water quality goals and regulatory standards. Factors such as dilution, removal through detention basins and the POMWTP raw water reservoir, and removal through treatment likely contributed to this.

Even though 2023 diversion volumes were greater and B&G Creek water quality was worse, no negative finished water quality impacts resulted. The District chose not to use JA for conveyance at POMWTP start up due to cost and water supply optimization concerns. The District opted to switch to the JA conveyance for a few weeks in July to avoid treating B&G Creeks water. Higher TOC in the JA source caused a switch back to the PRA on August 10. Turbidity was an issue during startup of POMWTP. High doses of coagulant chemical were required to achieve treatment goals.

One mitigating factor that was analyzed in 2023 was water quality before and after detention in PG detention basins. After detention sampling shows reduction of contaminant concentrations and is more representative of water quality impact on the PRA. Comparison of water quality results before and after detention shows contaminant levels were reduced through detention. The chart below shows Battle Creek turbidity before and after detention as an example of reduction through detention.



The amount of reduction was not consistent possibly due to changes in water levels and flow rates through the basins. The detention basins are designed for flood control not turbidity removal. The basin outlets are situated in the bottoms of the basins resulting in higher outlet turbidities compared to if the outlets were positioned higher as would be typical in a basin designed for detention. As shown in the chart, turbidity after detention can exceed levels the District would consider treatable.

Additional operational costs due to diversion of B&G Creeks were estimated by comparing treatment cost in 2022 and 2023. Elevated primary coagulant dose was required through early July corresponding with high B&G Creek flows. Treatment cost during this period was ~\$3.00 per acre foot higher in 2023 than during the same period in 2022. Treatment cost would likely be even higher if it weren't for the raw water reservoir. A significant amount of turbidity settles in the reservoir. One measurement showed a reduction from 200 NTU to 30 NTU due to settling. Additional solids that settle in the raw water reservoir due to diversion of B&G Creeks will require removal by District staff in the spring to prevent water quality issues.

Conclusions and Recommendations

Diversion of B&G Creeks into PRA occurs infrequently making it difficult to assess the impacts to the District. Low percentage of B&G Creek water compared to PRA total flow has prevented significant water quality events. No immediate threat to the public has been observed from diversion of B&G Creek water into the PRA.

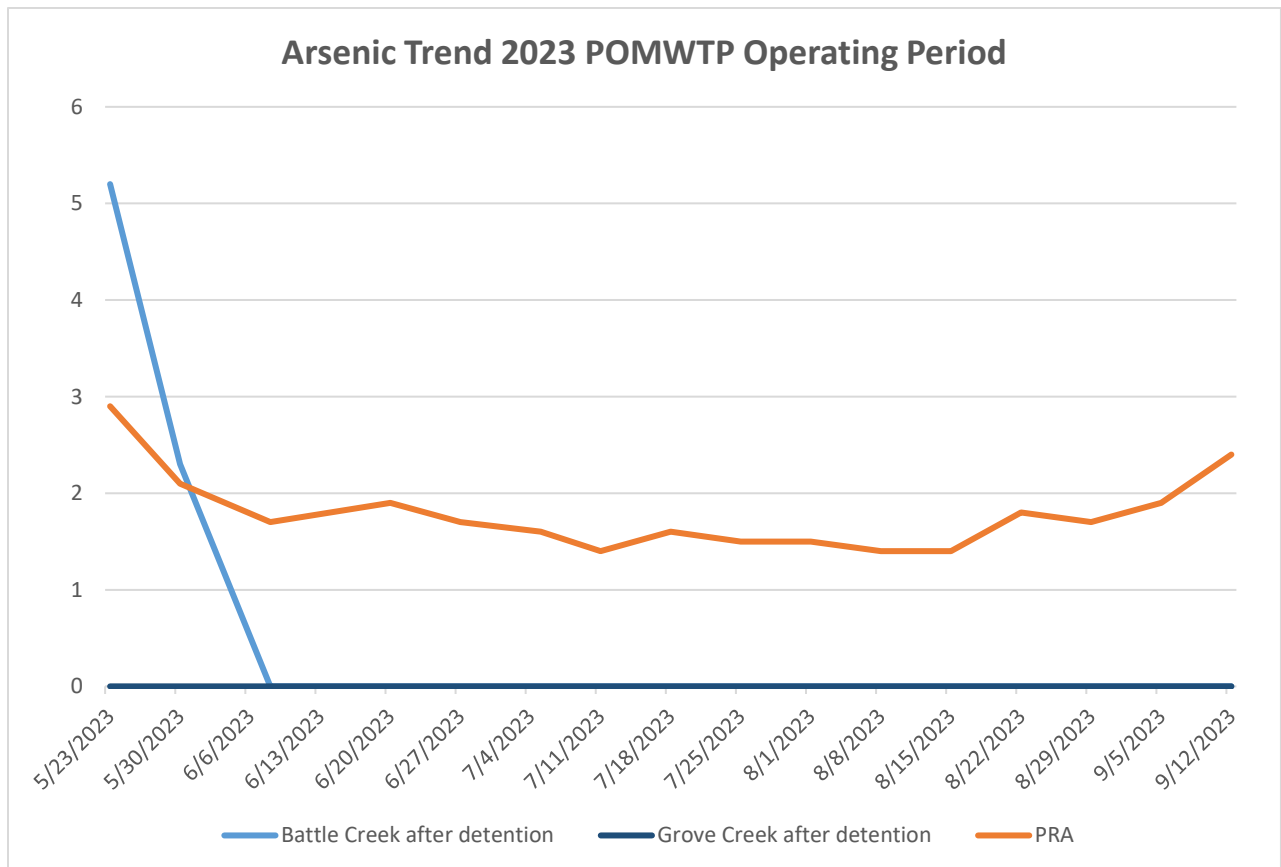
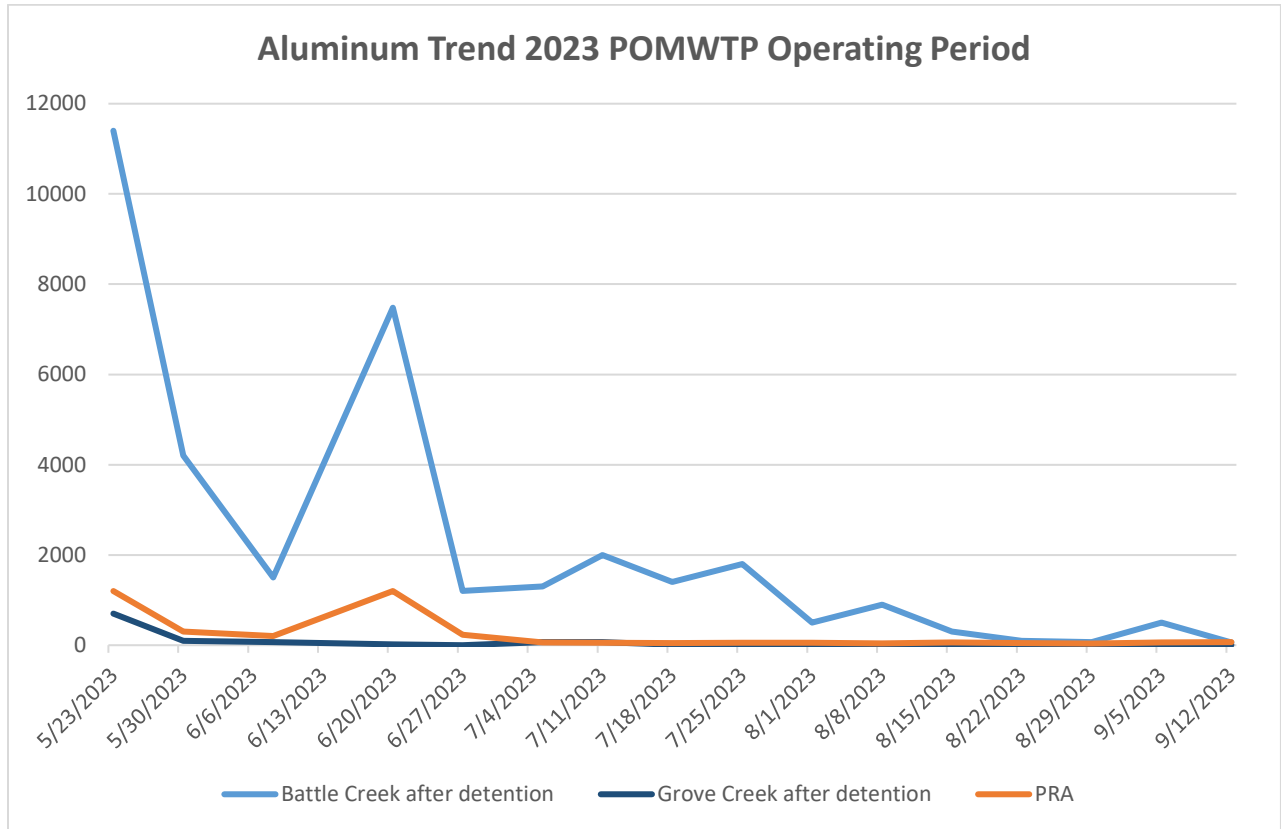
Though no immediate threat exists, the District remains concerned about additional costs and risk to water quality while the agreement is in place. If the POMWTP were to receive higher percentages of B&G Creek water due to lower demand from other downstream users, significant treatment costs and greater risk of water quality issues could result. A wildfire, or other ground-disturbing event, in the watersheds could significantly degrade water quality and increase water quality concerns. Additional costs and increased risk incurred by the District as a result of the agreement (without any benefits) has

led staff to recommend terminating the agreement, providing PG with a 15-year window to allow time to obtain the funds to design and construct facilities to handle the excess flows.

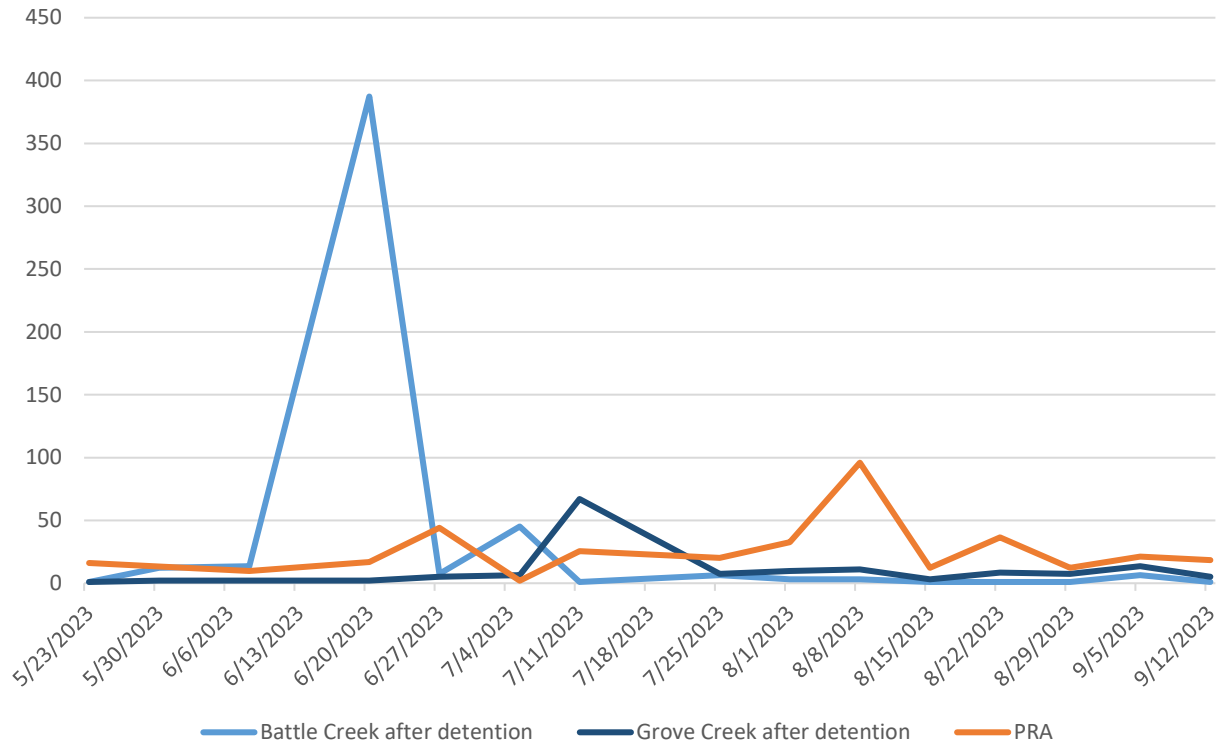
Attachement 1 – Water Quality Data Summary

Data Range	Battle Creek at Kiwanis Park March 2011 - June 30, 2023			Grove Creek at trailhead March 2011 - June 30, 2023			PRA inlet fore bay formerly Murdock Canal March 2011 - June 30, 2023			
	MCL and/or SMCL if applicable	Average	Min	Max	Average	Min	Max	Average	Min	Max
Organics										
ABS @ 254nm		0.016	0.007	0.048	0.022	0.013	0.047	0.035	0.023	0.055
TOC (mg/L)		0.78	0.33	7.03	0.95	0.48	4.51	2.13	0.89	3.13
Minerals & Nutrients										
Alkalinity as CaCO3 (mg/L)		166.2	127.0	266.0	187.8	135.5	378.1	142.0	108.0	198.5
Calcium as CaCO3 (mg/L)		137.0	104.0	232.0	162.7	112.0	252.0	139.8	104.4	253.2
Conductivity (uS/cm)		351.5	267.0	582.0	422.7	355.0	624.0	393.1	287.0	515.0
pH (pH units)	6.5-8.5 (SMCL only)	8.37	7.94	8.79	8.37	7.95	8.87	8.27	7.73	8.76
Total Dissolved Solids (mg/L)	2000 mg/L/500 mg/L	207	123	378	257	208	592	237	180	326
Total Hardness (mg/L)		189.3	148.0	294.0	223.3	177.6	318.0	184.9	138.8	237.6
Turbidity (NTU)		22.20	0.24	928.0	5.38	0.11	383.0	3.69	0.43	182.8
Anions										
Chloride (mg/L)	250 mg/L (SMCL only)	1.92	0.94	6.98	2.67	0.58	9.21	18.30	7.82	39.70
Fluoride (mg/L)	4.0 mg/L/2.0 mg/L	0.134	0.00	0.400	0.233	0.158	0.454	0.168	0.00	0.208
Nitrate (mg/L)	10 mg/L	0.38	0.18	1.87	0.18	0.00	1.26	0.21	0.00	0.82
Nitrite (mg/L)	1 mg/L	0.00	0.00	0.18	0.00	0.00	0.15	0.00	0.00	0.09
Ortho Phosphate (mg/L)		0.00	0.00	0.28	0.00	0.00	0.07	0.00	0.00	0.20
Sulfate (mg/L)	1000 mg/L/250 mg/L	25.76	13.79	106.18	39.96	17.29	122.70	40.40	20.76	53.83
Microbiological										
Cryptosporidium (cysts/L)		0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.4
E. Coli (MPN/100 mL)		9.2	<1	209.8	24.2	<1	2419.6	14.3	<1	360.9
Giardia (cysts/L)		<0.1	<0.1	0.4	<0.1	<0.1	0.1	1.2	<0.1	15.4
HPC - Simplate (MPN/mL)		187.9	0.00	>738	134.2	0.00	>738	354.5	0.00	>738
Total Coliform (MPN/100 mL)		785.5	0.00	>2419.6	657.2	0.00	>2419.6	919.2	0.00	>2419.6
Metals (*data from March 2011 - May 2018)										
Aluminum (ug/L)	50 to 200 ug/L (SMCL only)	325.27	0.00	11400.00	37.87	0.00	2000.00	81.89	0.00	1200.00
Antimony (ug/L)	6 ug/L	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Arsenic (ug/L)	10 ug/L	<1.00	0.00	5.20	0.00	0.00	0.00	2.11	0.00	3.43
Barium (ug/L)	2000 ug/L	23.46	0.00	104.00	19.22	0.00	114.00	65.17	23.16	87.00
Beryllium (ug/L)	4 ug/L	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Cadmium (ug/L)	5 ug/L	<1.00	0.00	3.00	<1.00	0.00	1.80	0.00	0.00	0.00
Chromium (ug/L)	100 ug/L	3.84	0.00	20.36	3.65	0.00	22.65	2.90	0.00	17.54
Copper (ug/L)	1000 ug/L (SMCL), 1300 ug/L action level	<1.00	0.00	104.05	<1.00	0.00	2.47	<1.00	0.00	2.00
Iron (ug/L)	300 ug/L (SMCL only)	575.10	20.00	13300.00	221.43	<50.0	2900.00	249.99	<50.0	1210.00
Lead (ug/L)	15 ug/L (action level)	<1.00	0.00	32.00	<1.00	0.00	2.80	<1.00	0.00	2.27
Manganese (ug/L)	50 ug/L (SMCL only)	16.59	0.00	450.00	1.79	0.00	59.95	23.87	<1.00	109.01
Molybdenum (ug/L)		2.03	0.00	6.12	1.78	0.00	5.20	<1.00	0.00	1.30
Nickel (ug/L)		3.33	0.00	22.70	2.98	0.00	8.24	2.35	0.50	3.70
Selenium (ug/L)	50 ug/L	2.11	0.00	9.50	1.47	0.00	7.40	<1.00	0.00	1.50
Silver (ug/L)	100 ug/L (SMCL only)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Thallium (ug/L)	2 ug/L	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Vanadium (ug/L)		1.32	0.00	13.20	0.98	0.00	6.25	1.24	0.00	5.35
Zinc (ug/L)	5000 ug/L (SMCL only)	4.72	0.00	145.90	<1.00	0.00	20.00	0.00	0.00	7.46

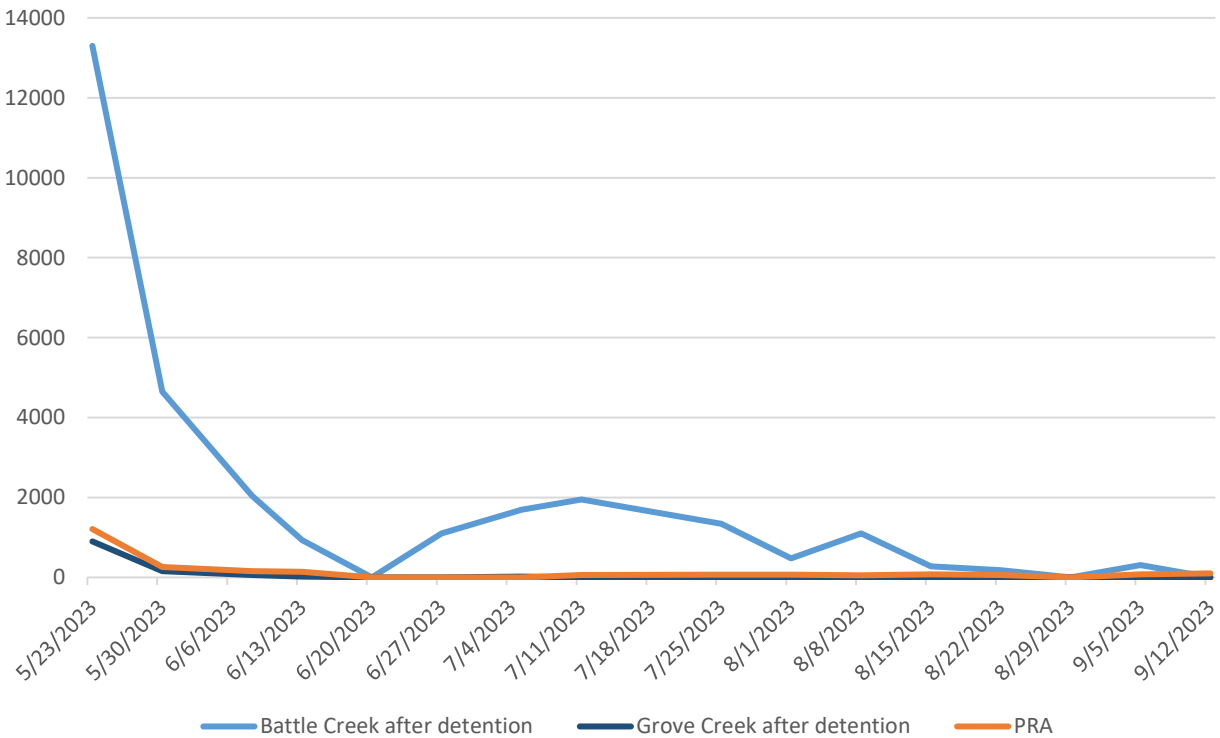
Attachment 2 – Trend Charts



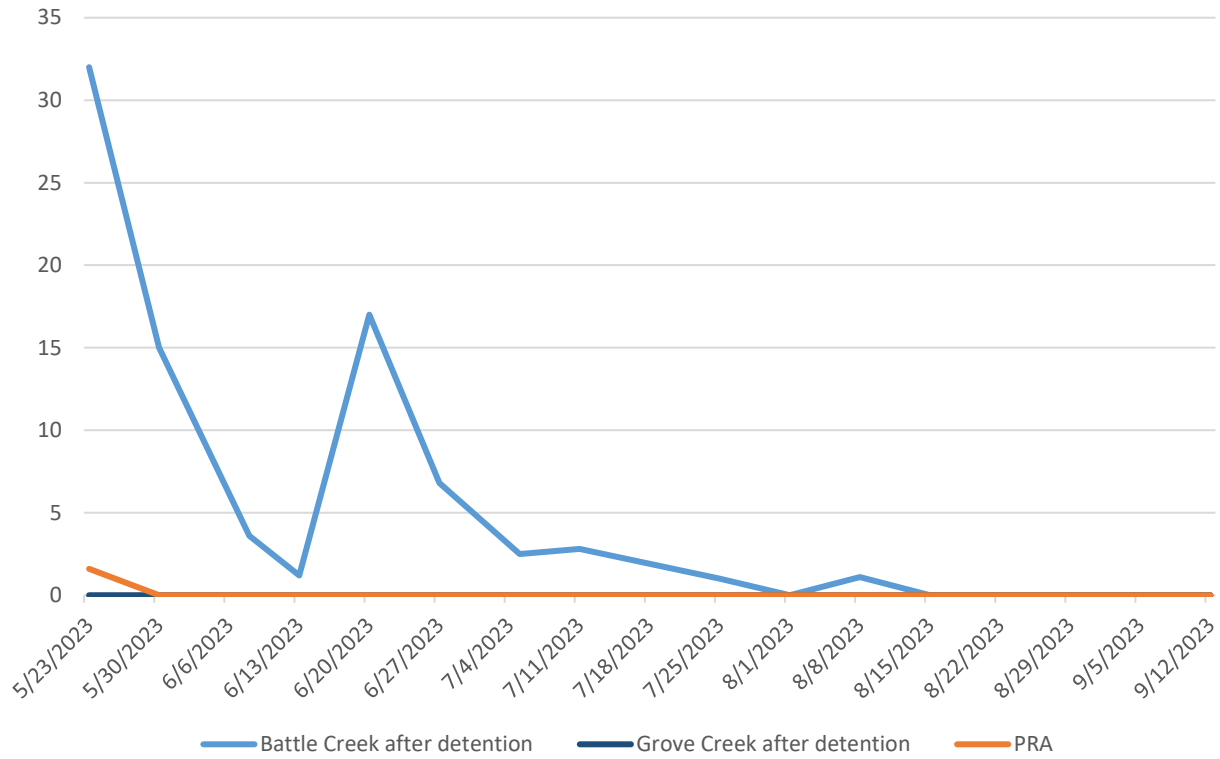
E. coli Trend 2023 POMWTP Operating Period



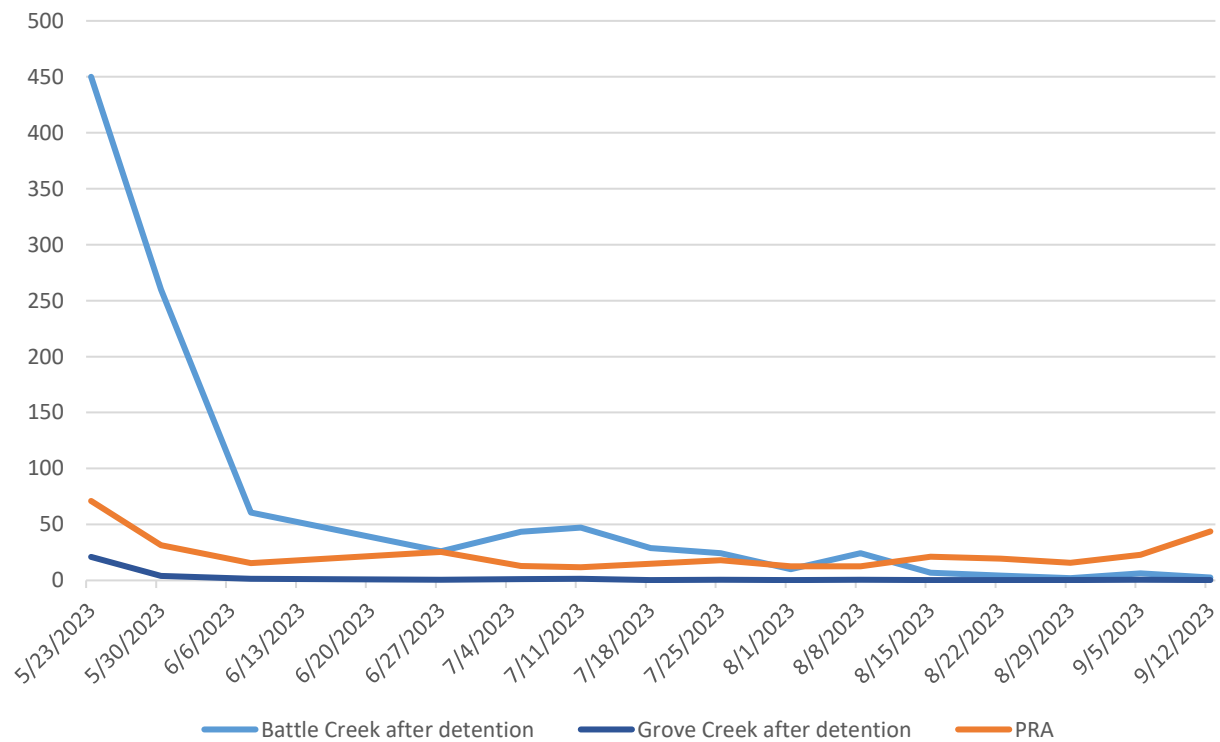
Iron Trend 2023 POMWTP Operating Period



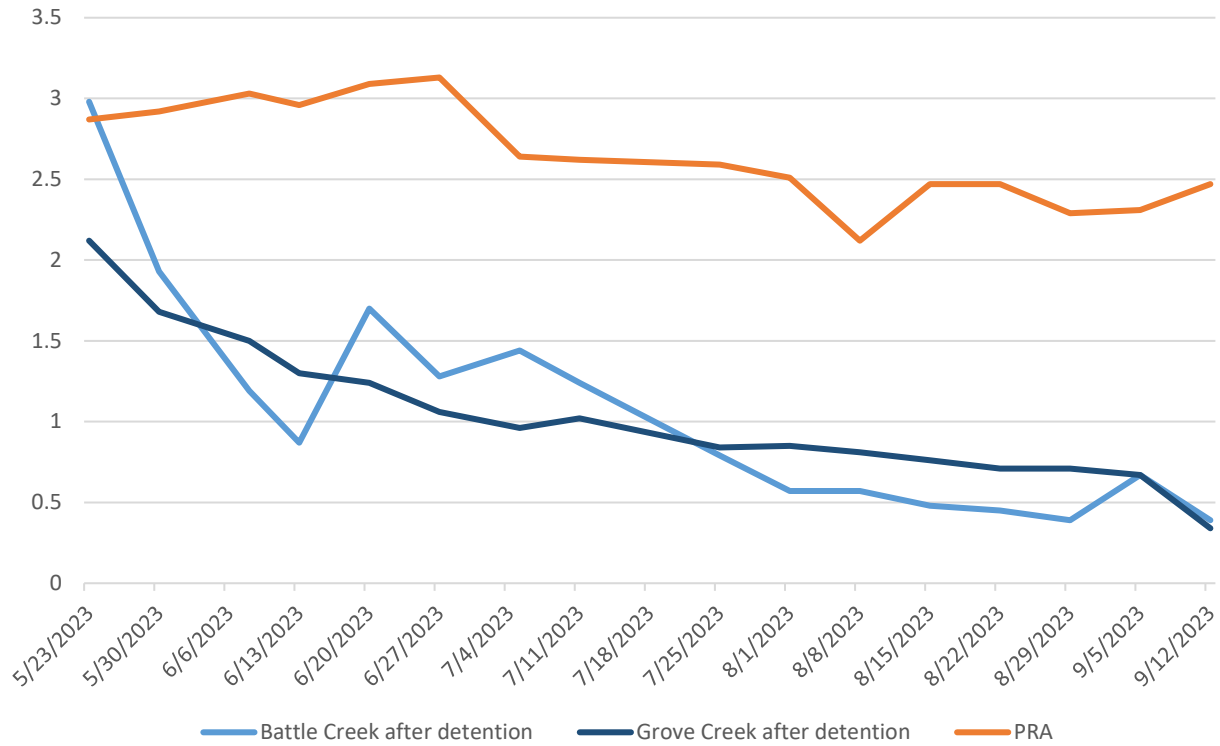
Lead Trend 2023 POMWTP Operating Period



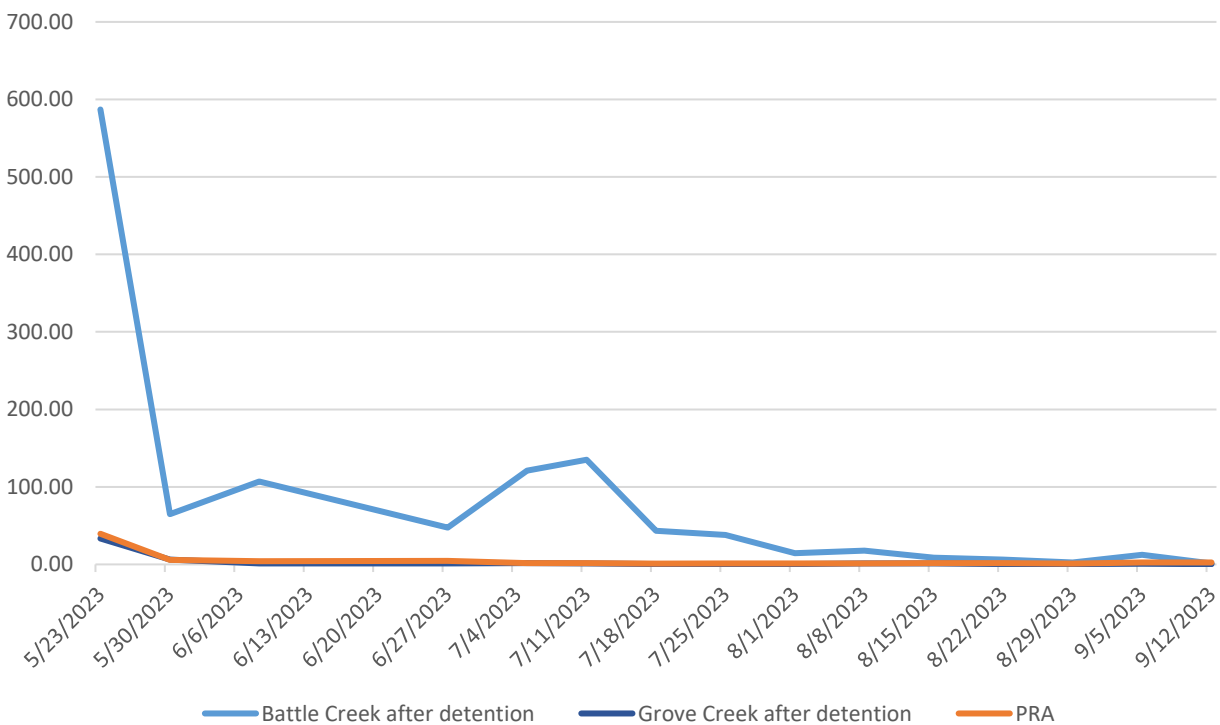
Manganese Trend 2023 POMWTP Operating Period



TOC Trend 2023 POMWTP Operating Period



Turbidity Trend 2023 POMWTP Operating Period



AGREEMENT BETWEEN METROPOLITAN WATER DISTRICT
OF SALT LAKE & SANDY
AND
PLEASANT GROVE CITY
FOR THE MONITORING OF WATER QUALITY
AND THE CARRIAGE OF FLOOD FLOWS
OF GROVE CREEK AND BATTLE CREEK
IN THE PROVO RESERVOIR CANAL ENCLOSURE PROJECT

This AGREEMENT is entered into effective the 13th day of Feb, 2012, by and between METROPOLITAN WATER DISTRICT OF SALT LAKE & SANDY, a Utah metropolitan water district (MWDSLS) and PLEASANT GROVE CITY, a Utah municipal corporation (PG).

AGREEMENT BACKGROUND AND PURPOSES

The Provo Reservoir Canal (PRC), also known as the Murdock Canal, is currently a facility of the Provo River Project, Deer Creek Division (PRP), and currently belongs to the United States Department of the Interior, Bureau of Reclamation (USBR) for the benefit and use of some PRP beneficiaries.

The PRC extends approximately 21.5 miles, from and including the Murdock Diversion near the mouth of Provo Canyon, to discharge points to the Utah Lake Distributing Company canal, and the Welby and Jacobs canals, at locations near and west of Jordan Narrows.

The original PRC was constructed by the Provo Reservoir Company in the early part of the 20th Century on mostly fee lands acquired by Provo Reservoir Company. In 1939, as a part of the construction of the PRP, USBR acquired the PRC, together with additional PRC corridor lands and interests in lands. The PRC was enlarged and reconstructed by USBR, including the construction of entirely new, larger siphons, which in some cases were relocated onto lands newly acquired by USBR.

The Provo River Water Users Association (PRWUA) is the local sponsor of the PRP. By the terms of the 1936 repayment contract between PRWUA and USBR, and federal Reclamation statutes, PRWUA is responsible to repay to USBR all of the costs of acquisition and construction of the PRP, including the PRC. PRWUA annually assesses its shareholders to fund repayment to USBR. PG is not a PRWUA shareholder, and has not contributed directly to the repayment of the PRP, but does have indirect interests via the Metropolitan Water District of Pleasant Grove and ownership of stock in Pleasant Grove Irrigation Company, Provo Reservoir Water Users Company, and potentially other companies who are PRWUA shareholders.

All of the capacity of the PRC was allocated by contract by USBR. The original design capacity of the original PRC was confirmed by a USBR contract to Provo Reservoir Water Users Company. All of the PRC capacity created by USBR was contracted by USBR to PRWUA. PRWUA in turn contracted essentially all of its PRC capacity by subscription contract to some of the PRWUA shareholders, but not in proportion to PRWUA shares. PG does not hold any contract PRC capacity rights directly from USBR or PRWUA, but does have indirect interests via the Metropolitan Water District of Pleasant Grove and ownership of stock in Pleasant Grove Irrigation Company, Provo Reservoir Water Users Company, and potentially other entities that do have PRC capacity.

Those with PRC capacity rights are responsible to reimburse annual maintenance costs to PRWUA in proportion to capacity rights, whether any of that capacity is exercised or not. Those with PRC capacity rights are responsible to reimburse annual operation costs to PRWUA in proportion to the volume of their water carried in the PRC. PG has not directly reimbursed PRWUA for PRC operation or maintenance costs, but has paid costs via the Metropolitan Water District of Pleasant Grove, Pleasant Grove Irrigation Company, Provo Reservoir Water Users Company, and potentially other entities that do reimburse PRWUA for PRC operation and maintenance costs.

USBR as owner of the PRC, and PRWUA as the entity responsible for the operation and maintenance of the PRC under the 1936 repayment contract, have long desired to enclose the PRC. Finally, the necessary legislation, and extensive and complicated contracts, and National Environmental Policy Act (NEPA) compliance, necessary for the \$150 Million Provo Reservoir Canal Enclosure Project (PRCEP) are in place. Construction of the PRCEP is well underway. The public benefits to be realized through the PRCEP will include, but are not limited to, the following:

Improved Personal and Property Safety. Because the PRC is an open canal, with siphons under streams and roads, a number of people have drowned in the PRC. Because the PRC is an earthen, mostly unlined, perched, canal, it has breached on one occasion, and approached breach on another occasion. The PRCEP will virtually eliminate these risks to the public.

Increased Capacity. The design capacity of the PRCEP, as compared to the PRC, will be increased and generally remain constant along its entire length. One benefit enclosure and enlargement will bring is year-round redundancy and operational flexibility. The PRCEP complements the Jordan Aqueduct System (JAS) and the Salt Lake Aqueduct (SLA), the two other facilities that convey water from the Provo River System to treatment for public use.

Water Conservation and Habitat Restoration. The unlined PRC lost, on a long-term annual average, approximately 8,000 acre-feet (AF) of water. The savings of water allowed MWDSLS and Jordan Valley Water Conservancy District (JVWCD) to relinquish contracts for a total of 8,000 AF of Central Utah Project (CUP), Utah Lake System (ULS) water and free up that water for use by the Department of the Interior for stream flows in the lower Provo River, which is designated critical habitat for the endangered June sucker. Such stream flows were a critical statutory and contractual mandate for the CUP, which is being constructed, operated and maintained by Central Utah Water Conservancy District (CUWCD). CUWCD is bearing half of the costs of PRCEP design and construction.

Improved Water Quality. MWDSLS very recently constructed the Point of the Mountain Water Treatment Plant (POMWTP) that will be supplied water primarily by the PRCEP. Before that, MWDSLS' direct use of the PRC was delivery of irrigation water only. MWDSLS has for a number of years had some of its water treated by JVWCD, who operates and maintains the Jordan Valley Water Treatment Plant (JVWTP) for the benefit of JVWCD and MWDSLS. Each of those two districts has ownership interests in the JVWTP, with JVWCD holding a 5/7ths interest, and MWDSLS holding a 2/7ths interest. The JVWTP is supplied water primarily by the Jordan Aqueduct System, but the PRC does supply water to JVWTP. Increasingly, the PRCEP will provide water to JVWTP. MWDSLS has been motivated to participate in the PRCEP in significant part because enclosure of the PRC will improve water quality by eliminating storm water, debris, etc. from entering the PRCEP.

Decreased Operation and Maintenance Costs. The costs of operating and maintaining the PRCEP are expected to be markedly less than the costs of operating and maintaining the PRC. A large majority of these costs are ultimately paid by public entities like the parties here.

Public Non-Motorized Trail. The PRCEP will allow Utah County to construct, operate and maintain a public trail over most of the length of the PRCEP. The wide PRC corridor, a very mild slope for the most part, and connections to other trail systems, present a unique opportunity for public recreation. More of that trail will be located in PG than in any other city.

In 2004, with the support of USBR, MWDSLS, CUWCD, JVWCD, Provo Reservoir Water Users Company, other PRWUA shareholders, northern Utah County cities, Utah County, Utah's Congressional delegation, and many others, PRWUA obtained Congressional authorization for the Secretary of the Interior to transfer title of the PRC to PRWUA (Title Transfer), through the enactment by Congress of the Provo River Project Transfer Act (Title Transfer Act). The Title Transfer Act mandated an agreement among MWDSLS, CUWCD,

JVWCD and PRWUA as a condition for Title Transfer. That agreement would eventually also include Provo Reservoir Water Users Company as a party. That agreement was required to be approved by USBR as complying with the Title Transfer Act, and would come to be known as the "Master Agreement."

On February 1, 2010, MWDSLS entered into the Master Agreement with PRWUA, CUWCD, JVWCD and Provo Reservoir Water Users Company. The Master Agreement expressly limits sources of water carried in the PRCEP to the Provo River and ULS, unless all of the parties to the Master Agreement concur.

In most years the peak combined flows of Grove Creek and Battle Creek do not exceed the combined available capacities of the Pleasant Grove Irrigation Company system and the PG storm water system. Occasionally, however, the peak combined flows of these two creeks does exceed the combined available capacities of the Pleasant Grove Irrigation Company system and the PG storm water system. The natural waterways for these two creeks to Utah Lake have been obliterated by development over time, however, PG boundaries do not extend to Utah Lake. For some time, excess flows have been directed down sand-bagged PG streets, and later via temporary pipes laid on PG streets, into the open PRC.

Under the existing agreements of USBR and others, PG has no capacity right in PRCEP. MWDSLS believes that allowing excess flows of these creeks into the PRCEP, among other problems or potential problems, would be in violation of federal Reclamation statutes while the PRCEP is still in federal ownership, and would cause violations of state and federal Safe Drinking Water Acts and related regulations because there is no approved source water protection plan in place. Also, to the extent that excess flows have been dumped into the open PRC and beneficially used, there is no apparent water right for such use. The Utah Lake basin is over-appropriated and is closed to new appropriations. MWDSLS, PRWUA and many others depend upon Utah Lake directly and indirectly, as well as the priority rights in and to Utah Lake.

It is not clear if PG has any right to dump excess flows into the PRC, particularly after completion of the PRCEP. Such a claim, and defenses to such a claim, is disputed.

PG has indicated that it would have a financial and engineering burden building additional facilities to carry the excess flows to Utah Lake, particularly without appropriate lead time for planning and financing.

MWDSLS believes it is compelled to protect the quality of its drinking water from any degradation, and to see that applicable state and federal laws and regulations, including but not limited to, Safe Drinking Water Act provisions and related regulations, are complied with. MWDSLS would strongly prefer not to give up any of its PRCEP capacity in order to

accommodate Grove Creek and Battle Creek excess flows, even if only for a matter of weeks in high runoff years, as this diminishes operational flexibility for MWDSLS and PRWUA.

The parties have agreed to resolve their disputes as described below.

IN CONSIDERATION of the mutual covenants of the parties, and the resolution of disputed claims, the parties agree as follows:

1. **Design, Construction and Operation of PG Connection to PRCEP.**

a. **Design and Construction.** PG shall cause a piped connection from the retention/settlement basins near the mouths of the two canyons to the PRCEP to be constructed and maintained, at PG's sole expense, in a safe and reasonably professional manner, as reasonably approved by MWDSLS. The plans for the described connection to PRCEP are in progress. Any changes to the current plans proposed by PG shall be approved in advance by MWDSLS. Upon reasonable notice, PG agrees to cause to be designed and constructed, at PG's sole expense, modifications to the PG connection and related facilities if determined by MWDSLS, after consultation with PG, to be reasonable and necessary for water quality or operational flexibility, including, but not limited to facilities necessary to move the diversion of one or both creeks further up-stream, improvements to retention/settlement basins, improvements to screens, etc.

b. **Metering and Operation.** Such PG connection shall contain real time and recorded metering to enable MWDSLS to monitor compliance with this Agreement and to measure flows and quantities of water introduced into PRCEP from Grove and Battle Creeks, with feeds to the MWDSLS and PRWUA Supervisory Control and Data Acquisition (SCADA) systems. Any valves required to introduce excess Grove Creek and Battle Creek flows, as described in this Agreement, into the described PG connection will be controlled remotely by PRWUA only. Both parties to this agreement agree to reasonably cooperate with PRWUA regarding design, construction, operation, maintenance, and restoration activities.

c. **Source of Water.** No source of water other than the retention/settlement basins shall be allowed into the PG connection, and no source of water other than natural Grove Creek and Battle Creek flows (and natural precipitation falling directly on the basins) upstream of the retention/settlement basins shall be allowed into the retention/settlement basins.

d. **Screening.** PRCEP is lined with a material critical to the durability and capacity of PRCEP that is susceptible to abrasion. Grove Creek and Battle Creek water shall be screened, as directed by MWDSLS, before it is introduced into the above described PG connection. Such directions are subject to change upon reasonable notice and consultation with

PG and PRWUA. The goal will be to achieve water quality consistent with the water being introduced into PRCEP from the Murdock Diversion.

e. **Inspection.** MWDSLS shall have the right to inspect all or any part of the PG connection upon notice to PG which is reasonable under the circumstances.

f. **Restoration.** Upon the effective date of termination of this Agreement, PRWUA shall reasonably repair the PRCEP at the point of connection with the PG system, and PG shall reimburse PRWUA for such costs, together with interest after 60 days from invoice at the rate of prime + 2% as reasonably calculated by PRWUA.

g. **Salt Lake Aqueduct Protection.** The retention/settlement basins are on or near the SLA and SLA corridor belonging to MWDSLS. These retention basins are owned by North Utah County Water Conservancy District (NUCWCD), but are maintained and operated to a degree by PG. PG will reasonably cooperate with MWDSLS and NUCWCD to see that the ownership, use, operation, maintenance, modification, repair and replacement of the retention/settlement basins shall at all times comply with MWDSLS regulations and policies. PG shall at its sole cost be responsible for any compliance with law, statute, regulation or ordinance applicable to the PG activities regarding the design, construction, operation, maintenance, repair or replacement of all facilities above PRCEP used by PG.

2. **Excess Flows Only.** PG waives any claims or potential claims regarding its legal right to dump excess flows into the PRC by entering into this agreement. PG shall cause the combined capacities of the Pleasant Grove Irrigation Company system, the PG storm water system and the PG secondary irrigation system to be maintained. PG shall not attempt to introduce Grove Creek and/or Battle Creek flows into PRCEP without making reasonable efforts to maximize the carriage of such flows in the then available combined capacities of the Pleasant Grove Irrigation Company system, the PG storm water system and the PG secondary irrigation system. To the extent that PG has at that time any ability to put higher quality water into the PRCEP and lower quality water into the Pleasant Grove Irrigation Company system and/or PG storm water system and/or any PG secondary irrigation system, the highest quality water shall be diverted to PRCEP. No flows from Grove Creek or Battle Creek that fail to meet these criteria shall be introduced into PRCEP without the prior written consent of MWDSLS. No projects above the retention/settlement basins that may increase the turbidity of water introduced into PRCEP shall be conducted or allowed by PG.

3. **Use of PRCEP Capacity.**

a. **First Tier PRCEP Capacity Use.** PG shall first utilize PRCEP capacity that is then available to PG via the Metropolitan Water District of Pleasant Grove, or as a shareholder of Pleasant Grove Irrigation Company, Provo Reservoir Water Users Company,

and/or any other entity that may have capacity rights in the PRCEP. PG shall not take any action during the term of this Agreement to diminish any capacity that may be available to it to carry Battle Creek and Grove Creek excess flows via the Metropolitan Water District of Pleasant Grove or as a shareholder of Pleasant Grove Irrigation Company, Provo Reservoir Water Users Company, and/or any other entity that may have capacity rights in the PRCEP. PG is solely responsible to make the arrangements necessary for such first tier PRCEP capacity use, and pay all associated costs. All terms of this Agreement shall be applicable to the use of such PRCEP capacity except for the MWDSLS charges for use of MWDSLS PRCEP capacity described in section 3.c. below.

b. **Second Tier PRCEP Capacity Use.** Next, PG will use any capacity that PRWUA can and agrees to make available to PG consistent with the terms of the Master Agreement. PG is solely responsible to make the arrangements necessary for such second tier PRCEP capacity use, and pay all associated costs. All terms of this Agreement shall be applicable to the use of such PRCEP capacity except for the MWDSLS charges for use of MWDSLS PRCEP capacity described in section 3.c. below.

c. **Third Tier PRCEP Capacity Use.** Next PG may utilize any MWDSLS PRCEP capacity that MWDSLS can reasonably make available to PG. Due to the redundancy in MWDSLS' system, and the likely demands on MWDSLS when excess Grove Creek and Battle Creek flows are likely to occur, it is anticipated that MWDSLS will be able to make PRCEP capacity available to PG, however, MWDSLS makes no specific warranty. MWDSLS' service to its member cities (including any member agency(ies) that may be added), MWDSLS' commitments to Utah Lake Distributing Company, and MWDSLS' opportunities to sell surplus water for revenue, may all take priority to the uses granted PG herein. Increased costs incurred by MWDSLS, as reasonably calculated by MWDSLS, as a result of PG use of MWDSLS PRCEP capacity shall be reimbursed to MWDSLS by PG within 30 days of receipt of an invoice for the same, together with interest at the then prevailing PTIF rate plus 2% per annum. In addition, PG will be charged a carriage fee as set by the MWDSLS Board of Trustees as a part of the MWDSLS annual budget. MWDSLS may in its discretion charge a lower fee, or no fee, to its member cities and/or others. PG may, in lieu of payment of the carriage fee to MWDSLS, and while PG is deemed by MWDSLS to be in full compliance with the terms of this Agreement, keep the carriage fee in a restricted reserve to be used by PG only for improvements to PG facilities that reduce PG dependence on PRCEP capacity, or studies regarding the same, as reasonably approved in advance by MWDSLS.

d. **Fourth Tier PRCEP Capacity Use.** To the extent that PG needs PRCEP capacity in addition to MWDSLS' capacity it will acquire such capacity by written contract, but all terms of this Agreement shall be applicable to the use of such additional PRCEP capacity except for the MWDSLS charges for use of MWDSLS PRCEP capacity described in section 3.c. above.

e. **Mandatory Consents of Others.** Any use of PRCEP by PG shall require the written and signed agreement of the other parties to the Master Agreement. MWDSLS will reasonably cooperate with PG to obtain such agreement, but makes no warranty or representation that such agreements will be obtained. Any use of the PRCEP while in USBR ownership shall require the written agreement of USBR. PG agrees to not approach USBR regarding such an agreement, nor discuss or enter into such an agreement with USBR, without the prior consultation with MWDSLS and PRWUA. MWDSLS shall reasonably cooperate with PG's reasonable efforts to obtain any such USBR agreement, but makes no representation or warranty that such agreement will be obtained.

4. **Watershed Protection.**

a. **Approved Watershed Protection Plan.** PG shall, at its sole cost, cause a source protection plan, reasonably approved by MWDSLS in advance, to be developed and implemented. The source protection plan must be approved by the Utah Division of Drinking Water and/or other state and/or federal agency from time to time as required by applicable law, statute, regulation or ordinance. The source protection plan shall include signage, education and reasonable patrols. It is not anticipated that the plan will require exclusion of horses, dogs, or overnight camping, but that may change in the future to address serious biological contamination as reasonably determined by MWDSLS after consultation with PG. One goal of the source protection plan is stream protection zones of a distance from the stream available to Utah cities of the first class. Since PG is not a city of the first class, cooperation of the United States Forest Service (USFS), and/or MWDSLS member city ordinance, and/or Utah County ordinance, and/or legislation may be necessary to achieve this goal. The same will be diligently pursued as necessary by PG, with the reasonable cooperation of MWDSLS. One goal of the source protection plan shall be maintaining water quality at least of the same quality as to each constituent of concern as Provo River water at the Murdock Diversion as that may change from time to time.

b. **Sampling.** In consultation with PG and MWDSLS' member cities, MWDSLS will develop a sampling plan for the watersheds and Provo River at the Murdock Diversion. The sampling plan may change from time to time with experience, trends, concerns as to particular constituents that may change from time to time (including but not limited to constituents that are regulated), and applicable law, statute, regulation or ordinance. Attached as Exhibit B is an initial sampling plan. PG shall, at its sole cost, cause samples to be gathered, labeled and transported for testing in a manner consistent with MWDSLS protocols, that may change from time to time, by qualified and trained individuals. MWDSLS shall be solely responsible for lab costs.

5. **Regulatory Approvals and Water Rights.**

a. **Protection of Utah Lake Rights.** PG understands that PRP, CUP and Utah Lake Distributing Company water rights that MWDSLS depends upon are dependent upon the level of Utah Lake. Except as otherwise approved by final order of the Utah State Engineer (or final court order upon judicial review), at PRWUA's sole discretion, Grove Creek and Battle Creek water introduced into PRCEP by PG may be discharged to American Fork River, Dry Creek, and/or Jordan River in order to make Utah Lake whole. PRWUA shall never have any obligation to discharge quantities that would cause the capacity of American Fork River, Dry Creek or Jordan River as determined by PRWUA, to be exceeded. PG shall at its sole cost be responsible for any compliance with law, statute, regulation or ordinance applicable to such water rights and discharges, including, but not limited to, any Clean Water Act compliance and any compliance with any applicable water rights common law, statutes or regulations.

b. **Necessary Water Rights.** To the extent Grove Creek and Battle Creek water introduced into PRCEP for PG cannot be so discharged, or is not so discharged, into American Fork River, Dry Creek and/or Jordan River, PG shall have in place any approvals required by applicable law, statute, regulation or ordinance. MWDSLS will make reasonable efforts to consult with PG before protesting any application to the Utah State Engineer filed by PG to use excess Grove Creek or Battle Creek water introduced into PRCEP, but MWDSLS reserves all power and right to protect its water rights and the water rights that it depends upon. Subject to the foregoing, PG is free to sell the Grove Creek and Battle Creek water introduced into PRCEP consistent with this Agreement.

6. **Insurance.** PG shall maintain a broad form general liability policy of insurance consistent with Exhibit A attached. PG will procure an endorsement listing MWDSLS and PRWUA, and their respective trustees, directors, officers, and employees as additional insureds for claims arising out of PG's use of the PRCEP or PG's failure to make alternative measures for handling Grove Creek and Battle Creek flows following effective date of termination of this Agreement. Such coverage for MWDSLS and PRWUA and their respective trustees, directors, officers and employees shall be primary to any other coverage for the additional insureds. PG shall provide an insurance certificate and an endorsement to MWDSLS and PRWUA evidencing compliance with this provision at least annually. From time to time MWDSLS may increase the required liability limit to account for inflation. From time to time MWDSLS may make other changes to the liability insurance requirements to account for changes to the insurance industry or standard insurance forms. In the alternative, MWDSLS and PRWUA may elect to make other equivalent arrangements to have MWDSLS, PRWUA and PG, and their trustees, directors, officers, and employees as insured under the same policy for the first layer of coverage as described and apportion the costs reasonably.

7. **Term.**

a. **Perpetual Term Subject to Termination.** Except as described in this Agreement, the term of this Agreement shall be perpetual.

b. **Fifteen Year Notice Termination Without Cause.** Upon at least fifteen (15) years prior written notice, MWDSLS may terminate this Agreement without cause, in its sole and absolute discretion. If notice is given under this contract clause, PG will begin to implement improvements to the PG storm water system or provide information to MWDSLS regarding any other alternative methods PG decides to use in order to adequately manage the excess flows. PG will provide a written annual report to MWDSLS and PRWUA regarding the progress. During the 15 year notice period and as long as reasonable progress, as determined jointly by PG and MWDSLS, is being made regarding improvements to the PG storm water system, PG may continue to use the PRCEP for excess flows as outlined in this agreement. If reasonable progress is not being made during the 15 year notice period, PG agrees and acknowledges that the lack of progress is deemed a public threat and this agreement will be terminated pursuant to paragraph 7.c. In this event, PG agrees to defend and indemnify MWDSLS and PRWUA as more specifically stated in paragraph 7.g.

c. **Termination Upon Finding of Public Threat.** MWDSLS may terminate this Agreement as determined to be reasonable and necessary to avoid a material threat to the health, safety and welfare of the public, after notice which is reasonable under the circumstances, all as determined in good faith by the MWDSLS Board of Trustees in a public meeting where PG is invited to attend and give comment.

d. **Termination by PG.** PG may terminate this Agreement without cause upon 30 days notice.

e. **PG Obligation to Develop System Upon Termination.** PG shall plan, finance and construct facilities to reasonably carry excess Grove Creek and Battle Creek waters without harm to person or property, and shall discontinue use of the PRCEP completely and timely upon the termination date.

f. **No Prejudice to Other Remedies.** All rights of termination by MWDSLS and PG expressed in this Agreement shall be in addition to any legal or equitable remedies for breach of this Agreement that would otherwise be available, including termination for material breach and specific performance.

g. **Indemnity.** Except as otherwise defended and indemnified by insurance, PG shall defend and indemnify MWDSLS, PRWUA and their respective trustees, directors, officers and employees from any claim arising out of any allegation of third parties regarding termination of Grove Creek and Battle Creek excess flows in the PRCEP.

h. **Obligations That Survive Termination.** PG obligations to make payments, make restoration, and indemnify as described in this Agreement shall survive termination.

8. **General.**

a. **Notice.** Any notice required by this Agreement shall be deemed given when mailed or delivered to:

Metropolitan Water District of Salt Lake & Sandy
ATTN: General Manager
3430 East Danish Road
Cottonwood Heights, Utah 84093
Phone: (801) 942-1391

Pleasant Grove City
ATTN: City Administrator
70 South 100 East
Pleasant Grove, Utah 84062

b. **Successors/Assigns/Third Party Beneficiaries.** The rights and obligations of the parties may not be assigned or transferred without the prior written consent of the other party, which may be withheld at the sole discretion of the approving party. PRWUA alone is an intended third party beneficiary.

c. **Authority.** The person(s) signing on behalf of the parties represent and warrant that they have been duly authorized by formal action of their respective governing body to execute this Agreement.

d. **No Warranty.** Neither MWDSLS nor PRWUA make any warranty or representation as to the condition of the PRCEP, or the fitness or compatibility of the PRCEP for use as anticipated by PG or this Agreement.

e. **Venue.** This Agreement shall be governed by the laws of the State of Utah. Any action regarding this Agreement shall be brought in the Third Judicial District Court in and for Salt Lake County.

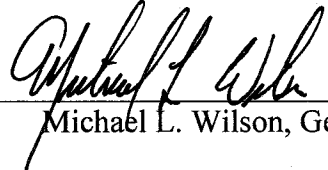
f. **Integrated Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any prior negotiations or discussions, and cannot be altered except through a written instrument signed by all parties.

DATED effective the day and date first written above.

Dated: February 28, 2012

MWDSLS:

METROPOLITAN WATER DISTRICT OF
SALT LAKE & SANDY

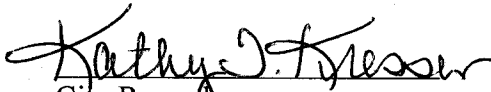
By: 
Michael L. Wilson, General Manager

CITY:

Dated: _____

PLEASANT GROVE CITY

Attest:


Kathy J. Kresser
City Recorder

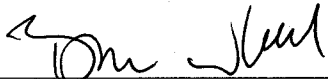
By: 
Bruce W. Call, Its Mayor



EXHIBIT A

INSURANCE AND BOND REQUIREMENTS

Re: Pleasant Grove/Metropolitan Water MWDSLS of Salt Lake & Sandy

A. MINIMUM LIMITS OF INSURANCE

PG and all of PG's contractors and all subcontractors of PG's contractors shall maintain limits no less than:

1. **GENERAL LIABILITY:** \$1,000,000 combined single limit per occurrence, personal injury and property damage, \$2,000,000.0 Aggregate, Broad Form Commercial General Liability, (ISO 1993 or better), to include Products - Comp/OP, aggregate of \$2,000,000.

B. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retention must be declared to and approved by the MWDSLS in writing. At the option of the MWDSLS, either; the insurer may be required to reduce or eliminate such deductibles or self-insured retention as respects the MWDSLS, its trustees, officers, and employees; or PG may be required to procure a bond guaranteeing payment of losses and related investigations, claim distribution and defense expenses.

C. PERFORMANCE AND PAYMENT BONDS

All persons and entities performing any work which may impact PRP, PRCEP or MWDSLS facilities will provide performance and payment bonds for the full sum of their contracts, naming the MWDSLS or PRWUA, as applicable, as co-obligee.

D. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

I. General Liability Coverages

(a) MWDSLS, its trustees, officers, and employees are to be covered as additional insureds as respects: claims arising out of activities of the named insured relating to the collection, conveyance, or discharge of Grove Creek and/or Battle Creek flows and/or construction that may impact MWDSLS and/or PRWUA facilities. The coverage shall contain

no special limitations on the scope of protection afforded to MWDSLS, its trustees, officers, and employees.

(b) The insurance coverage of PG, PG's contractors and subcontractors, shall be a primary insurance with respect to MWDSLS, its trustees, officers, and employees. Any insurance or self-insurance maintained by MWDSLS, its trustees, officers, and employees shall be in excess of the PG's insurance and shall not contribute with it.

E. ACCEPTABILITY OF INSURERS

Insurance and bonds are to be placed with insurers admitted in the State of Utah with a Bests' rating of no less than A-, IX, and in the limits as listed in this document, unless approved in writing by the authorized representative of the MWDSLS.

F. VERIFICATION OF COVERAGE

PG and all of PG's contractors and all subcontractors of PG's contractors shall furnish MWDSLS with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by MWDSLS before work commences. MWDSLS reserves the right to require complete, certified copies of all required insurance policies, with all endorsements, at any time.

G. PG STRICTLY LIABLE FOR COMPLIANCE OF CONTRACTORS

PG shall see that each of PG's contractors, and each of their subcontractors, complies with these insurance requirements, and PG shall be strictly liable for any failure of such contractors and subcontractors to meet these requirements.

EXHIBIT B

Sampling Plan

Samples will be gathered at or near the Murdock Diversion on the Provo River, at or near the mouth of Battle Creek canyon, at or near the mouth of Grove Creek canyon for the purposes of testing for the following listed constituents. Samples will be collected at the frequencies indicated. Samples will be collected by PG and delivered to the MWDSLS lab located at 9000 South Danish Road, Cottonwood Heights, Utah, 84093. Any costs related to the collection and transporting of the samples will be the responsibility of PG. Sample testing will be performed by MWDSLS. Any costs related to the processing of sample tests will be the responsibility of MWDSLS.

<u>Constituent</u>	<u>Frequency (April-September)</u>	<u>Frequency (October-March)</u>
total organic carbon (TOC)	weekly	monthly
pH	weekly	monthly
alkalinity	weekly	monthly
hardness	weekly	monthly
turbidity	weekly	monthly
colilert	weekly	monthly
heterotrophic plate count	weekly	monthly
nitrate	weekly	monthly
nitrite	monthly	monthly
chloride	weekly	monthly
fluoride	monthly	monthly
sulfate	weekly	monthly
ortho-phosphate	monthly	monthly
metals	monthly	monthly
total dissolved solids	monthly	monthly
conductivity	monthly	monthly
giardia	monthly	quarterly
cryptosporidium	monthly	quarterly

Changes to the location, frequency, and constituents may be modified from time to time as reasonably determined by MWDSLS.

Metropolitan Water District of Salt Lake & Sandy
Board Meeting Information
Last Update: April 4, 2024

Agenda Item: Consider approval of District Privacy Policy Statement

Background: On January 30, 2024, we received a notice from the State Auditor's office that the District needed a properly published privacy policy statement on our website, which is required by Utah Code [63-D-2-S103](#). Whitney Phillips, State Privacy Officer, asked that we draft and publish a privacy policy statement on our website by April 30, 2024. The District's website gathers PPI (personally identifiable information) through candidate data and redirects candidates to other interactive forms. The Auditor's office provided a template to guide staff in creating a statutory compliant notice. Staff used the template to prepare the attached Privacy Policy Statement, which has been reviewed and accepted by the Auditor's office.

Committee Activity: The Executive Committee discussed this item on April 2, 2024.

Recommendation: The Executive Committee recommends approval of the District Privacy Policy Statement by the full board.

Attachment: Privacy Policy Statement



Privacy Policy Statement

In short: We care about your privacy, we use the minimal extent of information we need to provide you with the services you requested, we safeguard your data and we do not monetize it or improperly share it.

In detail: This Privacy Policy Statement (the “Statement”) is provided by the Metropolitan Water District of Salt Lake & Sandy (“we,” “us,” or “our”) in compliance with Utah Code Section 63D-2-103.

We are committed to protecting your privacy. This Statement explains how we handle your information when you visit this webpage. We want you to understand how your data may be collected, used, and secured.

Who We Are and How to Reach Us

We operate this governmental website. The Metro Water Job Board is operated by Paylocity. Here is their Privacy Center website: <https://www.paylocity.com/who-we-are/protecting-our-clients/privacy-center/>

If you have any questions or concerns, please reach out to us:

Phone: 801-942-1391

Email: bjackson@mwdsls.org

Our administrative body is the District’s Board of Trustees, and they can be reached at 801-942-9675 or tom.godfrey@mwdsls.org.

What Information We Collect

Here’s what we collect when you visit our webpage.

As with the majority of websites you visit online, we automatically collect standard statistical information. This information includes data like your IP address, browser type, pages accessed, and duration of visit.

If you apply for an open position, we use a third-party merchant who specializes in these types of transactions.

If you decide to provide us information as part of an online survey or to sign up for an email newsletter, we may collect personally identifiable information from you.

How We Use Your Information

The information we receive from statistical and voluntary means may be used for qualitative and quantitative research to help us improve the services we offer.

We may use information like your email and mailing addresses to send you emergency information, project information, and invitations to special events, unless you have opted out of these types of communications.

We do not disclose, sell, trade, or rent your personal information to outside parties.

Disclosure Practices

We care about your privacy. We only share your information when necessary and in accordance with the Utah's Government Records Access and Management Act, Utah Code 63G, Chapter 2.

Access and Corrections

You have the right to access and correct your information. Here's how you can do that:

1. Visit our main webpage at www.mwdsls.gov
2. For employment related corrections, navigate to the 'Employment' page.
3. Select the email link for Human Resources or call 801-942-9621.

Keeping Your Information Secure

Your data's safety is our priority. We have taken adequate measures to protect it. Here's how we reasonably ensure that your data stays safe:

- Vetting and contracting with reputable third parties.
- Limiting the number of staff members that have access to personally identifiable information.

Note on Records Classification

Personally identifiable information is not a classification of records under Utah Code Section 63G, Chapter 2, Government Records Access and Management Act.

Access to government records is governed by Utah Code Section 63G, Chapter 2, Government Records Access and Management Act.

Review of This Notice

We want you to feel comfortable using our services, knowing that your privacy is respected and protected. We welcome your feedback on this notice, which is reviewed annually.

Last Revision: April 4, 2024