



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Nate Smith, Deputy Director of Public Works/City Engineer  
Art Vela, Director of Public Works

**MEETING DATE:** September 24, 2024

**SUBJECT:** City of Banning Reinstatement in County Service Area ("CSA") 152 - National Pollution Discharge Elimination System ("NPDES") Stormwater Assessment

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### **RECOMMENDATION:**

Discuss with and obtain City Council direction on reinstating the CSA 152 NPDES stormwater assessment originally approved in 1994.

### **BACKGROUND:**

The National Pollutant Discharge Elimination System (NPDES) is a federally mandated program to control non-point sources of runoff pollution. The NPDES program is part of the Clean Water Act enacted by Congress in 1987. The California Regional Water Quality Control Board, Colorado River Basin, Region No. 7, in implementing the U.S. Environmental Protection Agency's storm water National Pollutant Discharge Elimination System (NPDES) permit program, requires that the Districts and Incorporated Cities within the Whitewater River Basin obtain a joint permit to discharge storm water into the various storm channels and washes throughout the Whitewater River Watershed area. The Riverside County Flood Control and Water Conservation District (RCFC&WCD) and Riverside County are acting as the Lead Agency with the City of Banning being a co-permittee, along with the various other agencies and municipalities located within the Whitewater River Basin. This current Permit was adopted by the Regional Board on June 20, 2013, expired on June 19, 2018 and has been negotiated and worked on with the affected parties over the past six years. A new permit (2025 NPDES Permit) that has been negotiated with the Regional Board is in review. It is anticipated to be adopted by the end of FY 2024/25 and will take effect 90 days later.

The City of Banning is required, through Best Management Practices (BMPs), to implement practices within our community which reduce pollutants entering into the storm drain system to the maximum extent practicable. The major components of the existing and 2025 NPDES Permit to implement the BMPs include: project management, attendance at Desert Task Force meetings, record keeping and Annual Report preparation; illegal dumping and illicit connection detection, inspection, spill prevention and cleanup activities; commercial and industrial facilities inspections (about 60 per year) and the review of all City issued business licenses for SB 205 compliance; implementing land development and plan review procedures including plan check, preparing Conditions of Approval, reviewing erosion control plans and WQMPs and ensuring post construction self-inspections are performed annually by required businesses; enforcing and implementing construction activities requirements of City and private development projects including construction site inspections, review of developer's BMPs, erosion control plans and SWPPPs (Stormwater Pollution Prevention Plans), and ensuring compliance with the Regional Board's Construction General Permit requirements; maintaining City facilities, including the City

Corporate and Water Yards and Fire Station, and storm drains and performing inspections and maintenance, removing trash and debris from the storm drain system, and from roads through street sweeping; and implementing public education and outreach programs by providing brochures to the public at City events and at the public counter, to businesses and contractors through inspections and storm water training of municipal staff.

The main new requirements of the 2025 NPDES Permit are:

- Asset Management
- Fiscal Cost Analysis/Cost Reporting
- Urban Pesticides
- Trash Amendment/Trash Capture Device Installation
- New Construction General Permit
- Continued SB 205 Compliance, business license verification of SIC Codes

The NPDES program costs the City about \$300,000 annually to manage the current NPDES Permit. The new 2025 NPDES Permit will cost more due to its new requirements. One way to generate revenue for the program would be to reinstate a “grandfathered” assessment from 1994, called the CSA 152 NPDES assessment. This stormwater assessment is currently collected by the County on behalf of a number of participating cities via property tax bills. The County administers and manages the CSA 152 program funds pursuant to CSA 152 Administrative Services Agreements with the participating cities. The County last collected the assessment in the City in 1994 at a rate of \$4.72/BAU/year. A BAU is a “benefit assessment unit” as defined by the County. If the assessment is resumed, an owner of a single-family home in the City would pay 1 BAU/year, amounting to \$4.72/year. Since the rate was adopted in 1994 prior to the passage of Proposition 218, any increase in the rate would require a Proposition 218 Hearing and vote through an assessment balloting proceeding.

### Recent Updates

Engineering Division staff met with the Riverside County Economic Development Office and the City Attorney’s Office several times over the past year to gather information and determine if the City or County had ever withdrawn from the CSA 152 Administrative Services Agreement with the County. After researching this, it appears neither the City nor County ever withdrew from the CSA 152 Agreement and, if the City Council would be inclined to do so, the City could have the County resume collecting the assessment starting in FY 25/26. In essence, the stormwater assessment is “grandfathered in” as an allowable assessment prior to Proposition 218 so long as the rate is not increased.

Additionally, there appears to be a reserve of about \$46,000 collected by the County from 1994 that was not utilized for City stormwater expenses and thus is due to be reimbursed to the City, for qualified stormwater expenses. These funds could be used to pay a portion of the CSA 152 Assessment consultant or for other stormwater expenses.

### Background on CSA 152 NPDES Assessment

LAFCO annexed the City of Banning into County Service Area 152 when the County of Riverside adopted Resolution No. 93-454 (Attachment 2) on December 21, 1993, at the City’s request, in order to have the County place an assessment on property owner’s tax bills to fund expenditures required by the NPDES Permit. On March 22, 1994, City Council Resolution No. 1994-028 (Attachment 3) was adopted to fund the City’s NPDES program, whereby the annual assessment rate for FY 94/95 for CSA 152 was set at \$4.72 per Benefit Assessment Unit.

On September 27, 1994 the City Council adopted Resolution No. 1994-107, approving the Administrative Services Agreement for the CSA 152 Program between the City of Banning and Riverside County, shown as Attachment 4. The County had formed CSA 152 to finance portions of its programs and obligations associated with its Municipal NPDES Permit. The Agreement sets forth the responsibilities of

the County and City with respect to the assessment. It provides for the City to annually approve a budget and report its activities in connection with its NPDES costs to the City. In addition, the City is responsible for updating parcel information for properties in the City. The County incorporates the City's budget and the budgets of other participating cities into the County's CSA 152 budget, holds an annual hearing, approves the assessments, and submits the assessments for collection on the Tax Roll. Both County and City Engineering Division staff performed research, and no records were found showing either party has ever withdrawn from this Agreement. Numerous other cities also joined CSA 152 to ensure funding of their NPDES program.

On July 11, 1995, by approving Resolution No. 1995-125 (Attachment 5), the City Council elected to use reserves (Option C) from the previous FY 94/95 instead of requiring that the property owners be assessed in FY 95/96. Therefore, the annual assessment was \$0.00 per BAU for FY 95/96. It should be noted there was a surplus that first year because the NPDES program was just starting. Further research shows that no annual staff reports or resolutions were approved by City Council to allow for collection of the annual assessment in subsequent years.

Calculation of the CSA 152 Assessment

In late 1993, the County of Riverside annexed the City of Banning into its County Service Area 152. The City, acting through the County and CSA 152, is able to collect an assessment on individual parcels within the City that contain a structure. Each parcel is assigned a certain number of "benefit assessment units" or "BAUs." For instance, a single-family home, regardless of its size, is assigned one BAU, while commercial property is assigned 12 BAUs per acre. One BAU costs the property owner \$4.72/year. Vacant and undeveloped land is exempt, regardless of its land use code.

When CSA 152 was formed, the County determined the formula and methodology to use to calculate the number of BAUs for each type of property. The details and examples of calculations for various land uses are shown on Resolution No. 1994-028 (Attachment 3), starting on page 4 of 12, which is County Ordinance No. 573. A parcel's land use was used to determine its runoff coefficient and BAU/acre (listed in the table), and the developed (assumed to be impervious) area in acres of the parcel is used to determine the number of BAUs and thus cost per year. If the CSA 152 stormwater assessment is proposed to resume, a municipal assessment consultant will be hired by the City to calculate the BAUs for each parcel to be placed on the Tax Roll.

As an example calculation, a Commercial/Industrial property (see below table, Group A, with 12 BAUs/Acre) that is a 10.0 acre commercial/industrial parcel, with a developed area of 8.0 acres, with a City of Banning BAU rate of \$4.72 per year:

No. of BAUs = (Developed Parcel Area) X 12 BAUs/Acre = 8 X 12 = 96 BAUs  
 Therefore, the assessment would be: 96 BAUs X \$4.72/BAU = \$453.12 per year.

The Table below shows the six (6) categories of land use, their respective runoff factors and the BAU per acre. Note that a single-family residence was used as the basis for one BAU. It is the proportionate runoff from a 1/6 acre or .17 acre property for one BAU and other sized parcels and land uses will have multiples of this basic unit.

BENEFIT ASSUSSMENT UNIT	(BAU's)		
Group	Land Use	Coefficient Factor	BAUs Per Acre
A	Commercial Industrial	0.8	12

B	Apartments/Mobile Homes, Churches, Schools	0.6	9
C	Single Family Residential*	0.4	6*
D	Poultry, Irrigated or Cultivated Crops, Vacant or Undeveloped	0	0
E	Golf Courses Private Parks	0.0067	0.1
F	Parcels with Miscellaneous Structures	0.0033	0.05
*For simplicity, all single family residential properties, regardless of size, have been assigned 1 BAU.			

Schedule of Requirements to Reenact CSA 152

If the City Council would like to pursue reinstating the CSA 152 assessment, a public participation and community outreach phase would occur in October and November of 2024. The Public Information Officer would perform outreach and let the residents and property owners know of public meetings held with the Public Works Dept. to explain the CSA 152 assessment and its purpose with regards to providing funds for the NPDES Program. A Request for Proposals (RFP) would simultaneously be released during this time to hire a municipal special district financing consultant firm. This RFP would provide for preparing the required Assessment/Levy Report to determine the number of benefit assessment units (BAUs) for each property within the City, identify which parcels within the City are eligible to be assessed and prepare any required assessment documents. The City would need to provide the County with the list of Assessor Parcel Numbers (APNs) to place on the FY 25/26 Tax Roll by mid May of 2025.

Cities must provide any updates/additional parcels from new development annually to the County. The same consultant used to identify the appropriate parcels for the fiscal year 2025/2026 levy could manage this process for the City.

The CSA 152 Agreement with the County of Riverside is being updated by the County and will be released in late 2024. No significant changes are expected; their Administration Fee for managing the assessment funds for the cities will remain at 6% of the revenues collected. If the Council decides to proceed with resuming the CSA 152 assessment, it is anticipated that in January of 2025, this new CSA 152 Agreement will be executed by the City of Banning and the Assessment Services professional services contract will need to be awarded by the City Council in December of 2024. Following this schedule will ensure the CSA 152 assessment can be collected on the FY 2025/2026 Tax Roll.

**JUSTIFICATION:**

The upcoming 2025 NPDES Permit will become effective in late 2025 and it has new and enhanced requirements that will significantly impact the City financially, as additional computer software, trash capture devices, consultant costs and City staff time will be needed.

**FISCAL IMPACT:**

No direct impacts from this workshop item, but potential impacts are discussed below.

CSA 152 provides a funding mechanism for the NPDES program. Eleven cities, including Palm Springs, Rancho Mirage, and Desert Hot Springs also joined CSA 152 to ensure funding of their NPDES program. The County adopted Resolution No. 2024-117 on July 9, 2024, adopting charges for the County Service Areas, including CSA 152, for FY 24/25, shown as Attachment 6.

Since assessments have not been collected from properties in the City since 1994, the funding source for the NPDES program is now absorbed by City of Banning Public Works Department, Streets Division (Fund 100). The Streets Division assists with the implementation and Engineering Division staff manages the NPDES program in-house. Consultants are utilized for Water Quality Management Plan and Erosion Control Plan review (the developer pays these fees through plan check deposits) and for NPDES stormwater and industrial waste inspections. The NPDES program costs the City about \$300,000 annually to manage the current NPDES Permit. Those costs are expected to be much higher (likely 35%) with the new permit given the new mandates. The municipal special district financing consultant will determine the estimated revenue to be collected from the assessment, a rough estimate of the revenues is between \$75,000 and \$110,000/year, which would substantially help with the NPDES program costs.

Stormwater program responsibilities are completed by about ten (10) Public Works Dept. staff members on a part-time and as-needed basis; there are no full-time staff assigned to the program.

**ALTERNATIVES:**

This workshop is providing information to the City Council and staff is seeking direction on whether to move forward with the next steps to reinstate the stormwater assessment for FY 25/26.

**BUDGETED?:**

No

**CONTRACT/AGREEMENT:**

No

**ATTACHMENTS:**

1. [Attach 1 CSA 152 Assessment PowerPoint.pdf](#)
2. [Attach. 2 County Reso. No. 93-454, formation of CSA 152, 12.21.93.pdf](#)
3. [Attach. 3 CC Reso. No. 1994-028, approving initial CSA 152 rates, 3.22.94.pdf](#)
4. [Attach. 4, CC Reso. No. 1994-107, approving CSA 152 Agree..pdf](#)
5. [Attach. 5, CC Reso. No. 1995-125, asking Council to approve or cease CSA 152, 7.11.95.pdf](#)
6. [Attach. 6 County Reso. 2024-117, CSA adoption FY 2425, 7.9.24.pdf](#)