



SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

380 E. Vanderbilt Way, San Bernardino, CA 92408

BOARD OF DIRECTORS' SPECIAL MEETING - RESOURCES/ENGINEERING

2:00 PM Tuesday, October 13, 2026

ZOOM INFORMATION

Online: <https://sbvmwd.zoom.us/j/84832686691>

Telephone: (877) 853-5247 US Toll-free

Meeting ID: 848 3268 6691

PASSCODE: 3802026

If you are unable to participate online or by telephone, you may submit your comments and questions in writing for Board consideration by emailing comments@sbvmwd.com with the subject line Public Comment Item # (insert the agenda item number relevant to your comment) or Public Comment Non-Agenda Item. Submit your written comments no later than 6 p.m. the day prior to the meeting. All public comments will be provided to the Board President and may be read into the record or compiled as part of the record.

IMPORTANT PRIVACY NOTE: Online participants MUST log in with a Zoom account. The Zoom app is a free download. Please keep in mind: (1) This is a public meeting; as such, the virtual meeting information is published on the World Wide Web and available to everyone. (2) Should you participate remotely via telephone, your telephone number will be your identifier during the meeting and available to all meeting participants; there is no way to protect your privacy if you elect to call in to the meeting.

CALL TO ORDER

1) INTRODUCTIONS

2) PUBLIC COMMENT

Members of the public may address the Board regarding any item within the subject matter jurisdiction of the Board; however, no action may be taken on off-agenda items except as authorized by law. Each speaker is limited to a maximum of three (3) minutes.

3) DISCUSSION AND POSSIBLE ACTION ITEMS

- 3.1 Consider Resolution No. 1207 Accepting the Federal Energy Regulatory Commission Order Approving Transfer of Licenses for the Santa Ana River 1 & 3 and Mill Creek 2/3 Hydroelectric Projects (20 min) - Page 3

Staff Memo - Consider Resolution No. 1207 Accepting the Federal Energy Regulatory Commission Order Approving Transfer of Licenses for the Santa Ana River 1 & 3 and Mill Creek 2/3 Hydroelectric Projects

1. Resolution No. 1207 Accepting the Federal Energy Regulatory Commission Order Approving Transfer of Licenses for the Santa Ana River 1 & 3 and Mill Creek 2/3 Hydroelectric Projects

2. Order Approving Transfer of Licenses and Amending Licenses, Issued April 23, 2026

4) **FUTURE BUSINESS**

5) **CLOSED SESSION**

5.1 Conference with Legal Counsel - Anticipated Litigation Significant Exposure to Litigation Pursuant to Paragraph (2) of Subdivision (d) of Section 54956.9: (1 Potential Case)

6) **ADJOURNMENT**

DATE: October 13, 2026

TO: Board of Directors' Special Meeting – Resources/Engineering Workshop

FROM: Leo Ferrando, Assistant Chief Engineer

SUBJECT: Consider Resolution No. 1207 Accepting the Federal Energy Regulatory Commission Order Approving Transfer of Licenses for the Santa Ana River 1 & 3 and Mill Creek 2/3 Hydroelectric Projects

Staff Recommendation

Staff recommend that the Board of Directors (Board) adopt Resolution No. 1207 that:

1. Accepts the Federal Energy Regulatory Commission (FERC) Order Approving Transfer of Licenses and Amending Licenses issued April 23, 2026, including the licenses for the Santa Ana River 1 & 3 Hydroelectric Project (FERC No. 1933) and the Mill Creek 2/3 Hydroelectric Project (FERC No. 1934).
2. Authorizes execution of the FERC license transfer acceptance.
3. Authorizes the Chief Executive Officer/General Manager, or her designee, to execute and file all related FERC submittals and to take all actions necessary for San Bernardino Valley's compliance with the licenses, the Order, and applicable FERC regulations.

Summary

On April 23, 2026, FERC approved the transfer of the Santa Ana River 1 & 3 and Mill Creek 2/3 hydroelectric licenses from Southern California Edison (SCE) to San Bernardino Valley, contingent on the District formally accepting the Order and its terms by October 23, 2026. With closing recently completed on September 14th and the grant deeds recorded on September 15th, Board acceptance is the remaining step. Adopting this resolution allows staff to file the executed acceptance sheets and related submittals with FERC before the deadline. With that filing, San Bernardino Valley becomes the licensee of record for both projects and assumes responsibility for their ongoing license and dam safety compliance.

Background

On April 23, 2026, FERC approved the transfer of the licenses for the Santa Ana River 1 & 3 Hydroelectric Project and the Mill Creek 2/3 Hydroelectric Project from SCE to San Bernardino Valley. The approval is contingent upon three conditions: (1) transfer of title to the project properties and delivery of all project files and license instruments; (2) San Bernardino Valley acknowledging acceptance of the Order and its terms and conditions by signing and returning the acceptance sheet attached to the Order; and (3) execution of any agreements relied upon to demonstrate San Bernardino Valley's qualifications. All required documents must be submitted to FERC by October 23, 2026.

San Bernardino Valley closed its acquisition of the hydroelectric facilities from SCE on September 14, 2026, and the grant deeds conveying the project properties were recorded on September 15, 2026, satisfying the title-transfer condition. No agreement was relied upon to demonstrate San Bernardino Valley's qualifications, so the third condition does not apply. The remaining condition, acceptance of the Order, requires a Board resolution. FERC's acceptance sheet must be executed with the District's seal, attested by the Board Secretary, and accompanied by a certified copy of the resolution.

Once the Board adopts the resolution, staff will file the executed acceptance sheets with FERC, along with the recorded instruments of conveyance and the required contact, dam safety, and corporate official designations. Upon that filing, San Bernardino Valley becomes the licensee of record for both projects. This triggers all obligations under the Order, including contacting FERC's Division of Dam Safety and Inspections within 30 days. Staff are coordinating these filings with the District's special FERC counsel, Richard Roos-Collins of Water Power Law Group PC.

District Strategic Plan Application

These efforts support San Bernardino Valley's mission, vision, values, and strategic objectives by promoting regional collaboration among water agencies to advance long-term water supply reliability for the communities served by the District.

Fiscal Impact

There is no fiscal impact associated with adopting this resolution.

Attachments

- 1) Resolution No. 1207 for accepting Federal Energy Regulatory Commission Order Approving Transfer of Licenses from Southern California Edison Company
- 2) Order Approving Transfer of Licenses and Amending Licenses, Issued April 23, 2026

RESOLUTION NO. 1207

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT ACCEPTING FEDERAL ENERGY REGULATORY COMMISSION ORDER APPROVING TRANSFER OF LICENSES FROM SOUTHERN CALIFORNIA EDISON COMPANY

WHEREAS, Southern California Edison Company (“**SCE**”) and San Bernardino Valley Municipal Water District (“**San Bernardino Valley**”) entered into that certain Asset Purchase Agreement, dated June 24, 2024, as amended, whereby SCE agreed to sell and assign to San Bernardino Valley, and San Bernardino Valley agreed to purchase and assume from SCE, certain Project Assets and Assumed Liabilities, as defined in the Asset Purchase Agreement, upon the terms and subject to the conditions set forth in the Asset Purchase Agreement.

WHEREAS, pursuant to Section 5.4 of the Asset Purchase Agreement, on September 20, 2024, as supplemented on October 30, 2025, SCE and San Bernardino Valley filed an application, pursuant to section 8 of the Federal Power Act (16 U.S.C. § 801 *et seq.*), to transfer the licenses for the 6.3-megawatt Santa Ana River 1 & 3 Hydroelectric Project No. 1933 (“**Santa Ana Project**”) and the 3-megawatt Mill Creek 2/3 Hydroelectric Project No. 1934 (“**Mill Creek Project**”). The Santa Ana Project is located on the Santa Ana River near Redlands in San Bernardino County, California, occupying federal lands within San Bernardino National Forest administered by the U.S. Forest Service. The Mill Creek Project is located on Mill Creek near Yucaipa in San Bernardino County and also occupies federal lands within the San Bernardino National Forest.

WHEREAS, on April 23, 2026, the Federal Energy Regulatory Commission (“**FERC**”) issued an Order Approving Transfer of Licenses and Amending Licenses (“**Order**”) approving the transfers of such licenses, subject to certain conditions set forth in the Order. A true and correct copy of the Order is attached as **Exhibit “A”** to this Resolution.

WHEREAS, the Board of Directors has reviewed the Order and now desires to accept the Order and its terms and conditions, including new license Article 205, and the licenses transferred thereby.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of San Bernardino Valley Municipal Water District as follows:

SECTION 1. Recitals. The above recitals are true and correct and are a substantive part of this Resolution and findings of the Board of Directors.

SECTION 2. Acceptance of Order and Licenses. The Board of Directors hereby accepts the Order attached as **Exhibit “A”** to this Resolution, and its terms and conditions, including new license Article 205, and the licenses for the Santa Ana Project and the Mill Creek Project transferred thereby.

SECTION 3. Further Acts. The President and Secretary are hereby authorized and directed to execute and deliver to FERC an acceptance sheet substantially in the form attached to

the Order, as well as such other documents as may be reasonably necessary to carry out the acceptance of the Order and the transfer of the licenses.

SECTION 4. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Resolution is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Resolution.

SECTION 5. Effective Date. This Resolution shall be effective upon adoption by the Board of Directors of San Bernardino Valley Municipal Water District.

ADOPTED this ____ day of _____, 2026.

AYES:

NOES:

ABSTAIN:

ABSENT:

T. Milford Harrison
President

ATTEST:

Heather Dyer
Secretary

EXHIBIT “A”

**FEDERAL ENERGY REGULATORY COMMISSION
ORDER APPROVING TRANSFER OF LICENSES AND AMENDING LICENSES,
DATED APRIL 23, 2026**

195 FERC ¶ 62,053
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southern California Edison Company
San Bernardino Valley Municipal Water District

Project Nos. P-1933-116 and
P-1934-065

ORDER APPROVING TRANSFER OF LICENSES AND AMENDING LICENSES

(Issued April 23, 2026)

1. On September 20, 2024, as supplemented on October 30, 2025, Southern California Edison Company (SCE or transferor) and San Bernardino Valley Municipal Water District (SBVMWD or transferee) filed an application, pursuant to section 8 of the Federal Power Act (FPA),¹ to transfer the licenses for the 6.3-megawatt (MW) Santa Ana River 1 & 3 Hydroelectric Project No. 1933 (Santa Ana Project) and the 3-MW Mill Creek 2/3 Hydroelectric Project No. 1934 (Mill Creek Project). The Santa Ana Project is located on the Santa Ana River near Redlands in San Bernardino County, California, occupying federal lands within San Bernardino National Forest administered by the U.S. Forest Service (Forest Service). The Mill Creek Project is located on Mill Creek near Yucaipa in San Bernardino County and also occupies federal lands within the San Bernardino National Forest. For the reasons discussed below, Commission staff approves the transfers, subject to conditions.

I. Background and Application

2. Commission staff issued a 30-year license for the Santa Ana Project on July 18, 2003,² and a 30-year license for the Mill Creek Project on July 22, 2003.³ SCE and SBVMWD filed an application seeking Commission approval to transfer the project licenses in connection with the proposed sale of the projects. SBVMWD states that it is legally authorized to engage in the business of developing, generating, and selling hydroelectric power within the State of California.⁴ SBVMWD is organized under the Municipal Water District Act of 1911, which permits SBVMWD to utilize any part of its

¹ 16 U.S.C. § 801.

² *Southern California Edison Company*, 104 FERC ¶ 62,011 (2003).

³ *Southern California Edison Company*, 104 FERC ¶ 62,048 (2003).

⁴ See Application at 7.

water, and any part of its works, facilities, improvements, and property used for the development, storage, and transportation of water to provide, generate, and deliver hydroelectric power, and may acquire, construct, operate, and maintain any and all works, facilities, improvements, and property necessary or convenient for such utilization.⁵ Additionally, SBVMWD is authorized to contract, provide, sell, and deliver hydroelectric power to various entities or use it for its own purposes.⁶

II. Public Notice

3. The Commission issued public notice of the application for transfer of licenses on January 2, 2025, establishing February 1, 2025, as the deadline for filing comments, interventions, and protests.⁷ The California State Water Resources Control Board and Forest Service filed timely unopposed motions to intervene on January 6, 2025.⁸ On May 23, 2025, American Dams filed comments expressing concerns regarding SBVMWD's experience in managing and operating hydroelectric projects, operating and maintaining associated power transmission lines, and mitigating fire risks. SBVMWD responded to these comments in a written filing submitted on August 13, 2025.

III. Discussion

4. Section 8 of the FPA provides that no voluntary transfer of any license, or the rights thereunder granted, shall be made without the written approval of the Commission.⁹ An application requesting the Commission's approval of a transfer must show that the transfer is in the public interest.¹⁰ The application must also provide in appropriate detail the qualifications of the transferee to hold such license and to operate the property under license, which qualifications must be the same as those required of license applicants.¹¹ Moreover, the application must include the transferor's certification

⁵ Municipal Water District Act of 1911, § 71662 (Application attach. D)

⁶ Municipal Water District Act of 1911, § 71663 (Application attach. D)

⁷ 90 Fed. Reg. 1,478 (January 8, 2025).

⁸ Timely notices of interventions and motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.

⁹ 16 U.S.C. § 801.

¹⁰ 18 C.F.R. § 9.3(a).

¹¹ *Id.* § 9.2.

that it has fully complied with the terms and conditions of the license.¹² Approval of a transfer of a license is contingent on the transfer of title to properties under the license, including evidence of the recording of such title transfer, and delivery of all license instruments.¹³

5. The applicants have demonstrated that the proposed transfers are in the public interest. They provided sufficient information that supports the transferee's legal, technical, and financial qualifications to hold the licenses and to operate and maintain the projects. Regarding the transferee's legal qualifications, SBVMWD is legally qualified to hold the licenses and operate the projects and authorized to do business in the State of California.¹⁴ As discussed further below, SBVMWD has the financial and technical resources to comply with the terms and conditions of the existing licenses.

6. SBVMWD is financially qualified to hold and operate the project licenses, with sufficient financial resources to meet the financial obligations related to operation and maintenance, contingencies, and repair or replacement of project facilities.¹⁵ In 2023, S&P Global Ratings affirmed SBVMWD's 'AAA' long-term rating for its outstanding revenue certificates of participation, reflecting its strong financial position and creditworthiness.¹⁶ This credit rating is attributed to SBVMWD's diversified income sources, minimal debt levels, and substantial cash reserves.¹⁷ SBVMWD submitted its financial statements for the 2022-2023 fiscal year (dated June 30, 2023), along with the proposed general fund budget for fiscal year 2024-2025.¹⁸ These documents indicate that SBVMWD has the financial capability to own, operate, and maintain the projects.

7. American Dams raises concerns about SBVMWD's experience in managing and operating hydroelectric projects, operating and maintaining associated power

¹² *Id.* § 131.20, para. 8.

¹³ *Id.* § 9.3(a).

¹⁴ *See* San Bernardino Valley Municipal Water District Certificate of Incorporation (Application at attach. A); San Bernardino Valley Municipal Water District Certificate of Formation (Application at attach. B); and San Bernardino Valley Municipal Water District Certificate of Good Standing (Application at attach. C).

¹⁵ *See* Application at 9.

¹⁶ *See* Application at attach. F.

¹⁷ *See* Application at attach. F.

¹⁸ *See* Application at attach. G and H.

transmission lines, and fire mitigation. SBVMWD is technically qualified to operate the projects, as demonstrated in part by its ownership and management of the 1-MW Waterman Hydroelectric Project, which was developed in partnership with the City of San Bernardino Municipal Water Department.¹⁹ SBVMWD's experience extends well beyond the 1-MW Waterman Hydroelectric Project. SBVMWD has also led the planning, engineering, design, and construction of two additional hydroelectric projects in partnership with its retail water agencies, both of which are now successfully owned and operated by those agencies. These projects reflect SBVMWD's direct and practical involvement in developing and delivering hydroelectric projects. It is also important to note that the hydroelectric facilities under consideration are modest in scale. Over the past 70 years since its formation, SBVMWD's operations division has overseen the daily operations and maintenance of its system facilities. SBVMWD plans to expand its operation team through the establishment of a new power division, which would strengthen its capacity to operate and maintain additional hydroelectric facilities, and facilitate effective engagement with the Commission and other regulatory agencies.²⁰

8. In addition, Commission staff evaluated SBVMWD's ability to operate and maintain project works safely, including associated electrical facilities and emergency preparedness measures. SBVMWD is actively finalizing efforts to complete its Emergency Preparedness Program, with particular focus on risk reduction related to, among other natural disasters, wildfire. A central component of this effort is SBVMWD's Hazard Mitigation Plan, which provides a comprehensive framework for addressing wildfire risk by evaluating vulnerable assets, projecting impacts, and outlining mitigation actions and capital projects to improve system resilience. Furthermore, the projects will remain subject to the Commission's dam safety and public safety requirements, which will continue unchanged following the transfers.

9. American Dams also raises concerns about the possible costs of the asset sale to SCE ratepayers. The Commission's role in a license transfer proceeding focuses on qualifications and public interest considerations. Matters related to ratepayer impacts and cost recovery are generally within the jurisdiction of the California Public Utilities Commission. Potential future relicensing or decommissioning alternatives would be addressed in the appropriate future proceedings.

10. Further, Commission staff confirms the importance of the licensee maintaining sufficient financial reserves by making this transfer contingent on the transferee accepting the amendment of the licenses by the addition of a new Article 205, *Reservation of Authority to Require Financial Assurance Measures*. The transferee is

¹⁹ See Application at 8.

²⁰ See Application at 9.

required to agree to the terms and conditions of the licenses, as amended herein, by signing and returning the attached acceptance sheet within 6 months from the date of this order.

11. As the transferee, SBVMWD must agree to accept all the terms and conditions of the licenses, as amended by ordering paragraph (C) of this order, and must comply with the requirements of the licenses as though they were the original licensee. Sections 9.3(a), 9.3(b), and 131.20 (paragraph 6) require the transferee to submit certified copies of all instruments of conveyance of title to the project properties from the transferor to the transferee, including evidence of the recording of the property conveyance. The proposed transfer of the licenses for the projects is consistent with the Commission's regulations.

IV. Dam Safety

12. Based on a past Commission dam safety inspection and a comprehensive review of project records, the Santa Ana Project is presently classified as being in poor condition and has not operated since 2020 due to penstock issues and further damage to the project resulting from Hurricane Hilary in 2023 and the Line Fire in 2024. The Mill Creek Project is generally in satisfactory condition, except for the Mill Creek No. 3 Diversion dam, which is in poor condition due to the failure of its downstream discharge channel retaining wall.

13. To ensure dam safety after the transfers are finalized and SBVMWD becomes the licensee, this order specifies in paragraphs (E) through (H) that SBVMWD will be responsible for all dam safety tasks. Additionally, SBVMWD must submit a plan and schedule to restore the projects to full operation.

V. Conclusion

14. For the reasons discussed above, Commission staff find that San Bernardino Valley Municipal Water District is qualified to be the licensee for the Santa Ana Project No. 1933 and the Mill Creek Project No. 1934, and that approval of the license transfers is in the public interest.

The Director orders:

(A) The transfer of the licenses for the Santa Ana River 1 & 3 Hydroelectric Project No. 1933 and the Mill Creek 2/3 Hydroelectric Project No. 1934 from Southern California Edison Company to San Bernardino Valley Municipal Water District is hereby approved, subject to paragraphs (B) through (H) as stated below.

(B) Southern California Edison Company shall pay all annual charges that accrue up to the effective date of the transfer.

(C) Approval of the transfers is contingent upon: (1) transfer of title of the properties under the licenses, transfer of all project files including all dam safety related documents, and delivery of all license instruments to San Bernardino Valley Municipal Water District, which must be subject to the terms and conditions of the licenses as though it were the original sole licensee; (2) San Bernardino Valley Municipal Water District acknowledging acceptance of this order and its terms and conditions, including new license Article 205, by signing and returning the attached acceptance sheet; and (3) execution of any agreements between San Bernardino Valley Municipal Water District and Southern California Edison Company that was relied upon to demonstrate San Bernardino Valley Municipal Water District's qualifications to hold the licenses. Within 6 months from the date of this order, San Bernardino Valley Municipal Water District must submit the aforementioned documents.

(D) The licenses for the Santa Ana River 1 & 3 Hydroelectric Project No. 1933 and the Mill Creek 2/3 Hydroelectric Project No. 1934 are hereby amended by adding new Article 205 to each license:

Article 205. Reservation of Authority to Require Financial Assurance Measures.
The Commission reserves the right to require future measures to ensure that the licensee maintains sufficient financial reserves to carry out the terms of the license and Commission orders pertaining thereto.

(E) Once the transfers become effective, San Bernardino Valley Municipal Water District is responsible for complying with all current and existing dam safety plans and schedules.

(F) Within 30 days of the transfers becoming effective, San Bernardino Valley Municipal Water District must contact the Division of Dam Safety and Inspections – San Francisco Regional Engineer to discuss the licensee's dam safety personnel, existing dam safety issues, updates to the project's existing dam safety documents, and general dam safety responsibilities.

(G) Within 60 days of the transfers becoming effective, San Bernardino Valley Municipal Water District must file with the Commission updates to any dam safety documents as a result of the transfers including, but not limited to, the projects' Public Safety Plan.

(H) Within 60 days of the transfers becoming effective, San Bernardino Valley Municipal Water District must file a plan and schedule with the Commission's Division of Dam Safety and Inspections – San Francisco Regional Office for making necessary repairs to the facilities of each project, and to restore the Santa Ana River 1 & 3 Hydroelectric Project to operation.

(I) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 825l, and the Commission's regulations at 18 C.F.R. § 385.713 (2025). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Kelly Houff
Chief, Engineering Resources Branch
Division of Hydropower Administration
and Compliance

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, including new license Article 205, _____ this _____ day of _____, 20____, has caused its corporate name to be signed hereto by _____, its President, and its corporate seal to be affixed hereto and attested by _____ its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the _____ day of _____, 20____, a certified copy of the record of which is attached hereto.

By _____

Attest:

Secretary
(Executed in triplicate)