

RESOLUTION NO. 08-011

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL
CONSERVATION AUTHORITY MAKING A FINDING THAT
THE MEMORANDUM OF UNDERSTANDING ENTERED
INTO ON JANUARY 16, 2008, BETWEEN THE WESTERN
RIVERSIDE COUNTY REGIONAL CONSERVATION
AUTHORITY, THE COUNTY OF RIVERSIDE, AND
ANHEUSER-BUSCH, INCORPORATED, IS VOID ON ITS
FACE AND HAS NO FORCE OR EFFECT**

WHEREAS, the laws of the State of California applicable to the general law cities govern the Western Riverside County Regional Conservation Authority ("RCA") in the manner of exercising its powers;

WHEREAS, RCA desires to address issues relating to the Memorandum of Understanding ("MOU") between RCA, the County of Riverside ("County") and Anheuser-Busch, Incorporated ("Anheuser-Busch");

WHEREAS, Andrew D. McElhinney and James and Marceleet Stimmel filed Verified Petitions for Writ of Mandate and Complaints for Declaratory Relief against the RCA, County and Anheuser-Busch relating to the MOU, on February 19, 2008 and February 20, 2008, (*Andrew D. McElhinney, et al. v. County of Riverside, et al.*, Case No. RIC 493233; and *James Stimmel, et al. v. County of Riverside, et al.*, Case No. RIC 493433);

WHEREAS, the MOU contains conditions precedent which the parties must satisfy in order for the MOU to move forward with implementation of the terms and conditions set forth within the document;

WHEREAS, Section 2(a) of the MOU states that the MOU shall not be subject to any third party appeal or litigation;

WHEREAS, a letter dated April 23, 2008, from John Condas, Counsel for Anheuser Busch to all parties of the MOU states that Anheuser Busch will not waive Condition 2(a) set forth in the MOU and will not proceed forward with the MOU due to pending litigation;

WHEREAS, a letter dated April 24, 2008, from Pamela J. Walls, Assistant County Counsel, to John Condas informing all parties to the MOU that the County will not waive Condition 2(a) set forth under the MOU and will not proceed forward with the MOU due to pending litigation;

WHEREAS, a letter dated April 29, 2008, from Geralyn L. Skapik, Counsel for RCA, was sent to Counsel for the McElhinneys and Stimmels forwarding the April 23, 2008, Anheuser-Busch letter and the April 24, 2008, County letter informing Counsel for the Stimmels and McElhinneys that the County, Anheuser-Busch and RCA will not

waive Condition 2(a) of the MOU and therefore, it is County, Anheuser-Busch and RCA's position that the MOU is void on its face and has no force or effect;

WHEREAS, the MOU, Section 7, mandates that the Agreement implementing the terms and conditions set forth in the MOU be executed by the Board of Supervisors of the County of Riverside and the Executive Board of RCA, no later than 43 days after the filing and posting of Notice of Determination ("NOD");

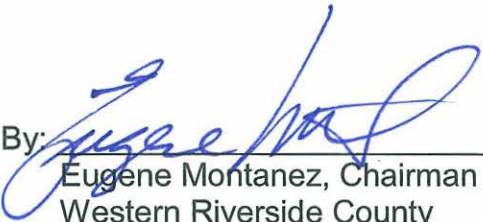
WHEREAS, the time to comply with Section 7 has expired;

WHEREAS, this Resolution finds that because the conditions precedent set forth above have not been satisfied, the MOU entered into between RCA, the County and Anheuser-Busch, is void on its face and has no force or effect; and


WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Western Riverside County Regional Conservation Authority Board of Directors finds that as a result of the fact that the conditions precedent described in the recitals have not been satisfied, the MOU entered into on January 16, 2008, between RCA, the County and Anheuser-Busch, is void on its face and has no force or effect.

PASSED AND ADOPTED at the regular meeting of the Board of Directors at the Western Riverside County Regional Conservation Authority held this 9th day of June 2008.

By: 
Eugene Montanez, Chairman
Western Riverside County
Regional Conservation Authority

ATTEST:

By: 
Honey Bernas, Clerk
Western Riverside County
Regional Conservation Authority