

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, CA
Board of Directors Meeting
Agenda
May 21, 2018 at 1:30 p.m.

1. Call to Order, Flag Salute, Invocation and Roll Call

2. Adoption and Adjustment of Agenda

3. Public Comment: Members of the public may address the Board at this time concerning items relating to any matter within the Agency's jurisdiction. To comment on specific agenda items, please complete a speaker's request form and hand it to the board secretary. Speakers are requested to keep their comments to no more than five minutes. Under the Brown Act, no action or discussion shall take place on any item not appearing on the agenda, except that the Board or staff may briefly respond to statements made or questions posed for the purpose of directing statements or questions to staff for follow up.

4. Consent Calendar: If any board member requests that an item be removed from the Consent Calendar, it will be removed so that it may be acted upon separately.

- A. Approval of the Minutes of the Regular Board Meeting, May 7, 2018* (p. 2)
- B. Approval of the Minutes of the Engineering Workshop, May 14, 2018* (p. 6)

5. Reports:

- A. General Manager's Report
 - 1. Operations Report
 - 2. Construction Update
 - 3. General Agency Updates
- B. Directors' Reports

6. New Business:

- A. Consideration and Possible Action to Adopt Resolution No. 2018-02, Authorizing Participation in California WaterFix and Authorizing Execution of Financing Implementation Agreements and Related Documents* (p. 8)
- B. Consideration and Possible Action on Resolution 2018-03, Adopting the San Gorgonio Pass Integrated Regional Water Management Plan* (p. 38)
- C. Consideration and Possible Action on Various SGPWA Actions as a Member of the San Gorgonio Pass Groundwater Sustainability Agency* (p. 42)

7. Topics for Future Agendas

8. Announcements:

- A. San Gorgonio Pass Regional Water Alliance, May 23, 2018
at 5:00 p.m. – Banning City Hall
- B. Office closed in observance of Memorial Day, May 28, 2018
- C. Finance & Budget Workshop, **Tuesday** - May 29, 2018 at 1:30 p.m.
- D. Regular Board Meeting, June 4, 2018 at 1:30 p.m.

9. Adjournment

Information included in Agenda Packet

(1) Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the Agency's office at 1210 Beaumont Avenue, Beaumont during normal business hours. (2) Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection at the Agency's office, located at 1210 Beaumont Avenue, Beaumont, California 92223, during regular business hours. When practical, these public records will also be made available on the Agency's Internet Web site, accessible at: www.sgpwa.com (3) Any person with a disability who requires accommodation in order to participate in this meeting should telephone the Agency (951 845-2577) at least 48 hours prior to the meeting in order to make a request for a disability-related modification or accommodation. 1 / 4 4

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, California 92223

Minutes of the
Board of Directors Meeting
May 7, 2018

Directors Present: David Fenn, President
Ron Duncan, Vice President
Blair Ball, Director
David Castaldo, Director
Stephen Lehtonen, Director
Michael Thompson, Director

Directors Absent: Lenny Stephenson, Treasurer

Staff Present: Jeff Davis, General Manager
Jeff Ferre, General Counsel
Thomas Todd, Finance Manager
Cheryle Rasmussen, Executive Assistant

1. **Call to Order, Flag Salute, Invocation, and Roll Call:** The meeting of the San Gorgonio Pass Water Agency Board of Directors was called to order by Board President David Fenn at 1:30 p.m., May 7, 2018 in the Agency Boardroom at 1210 Beaumont Avenue, Beaumont, California. President Fenn led the Pledge of Allegiance to the flag. Director Castaldo gave the invocation. A quorum was present.
2. **Adoption and Adjustment of Agenda:** *President Fenn asked if there were any adjustments to the agenda.* There being none the Agenda was adopted as presented.
3. **Public Comment:** *President Fenn asked if there were any members of the public that wished to make a public comment on items that are within the jurisdiction of the Agency.* There were no members of the public that wished to comment at this time.
4. **Consent Calendar:**
 - A. Approval of the Minutes of the Regular Board Meeting, April 16, 2018
 - B. Approval of the Minutes of the Finance & Budget Workshop, April 23, 2018
 - C. Approval of the Finance & Budget Report, April 23, 2018

Director Duncan made a motion, and seconded by Director Lehtonen to adopt the consent calendar as presented. Motion passed 6-0, with Director Stephenson absent.

5. Reports:

A. General Manager's Report:

(1) Operations Report: (a) SWP Water Deliveries: The Agency delivered 1112 acre-feet of Table A water to the Noble Creek Connection for the month of April. **(b)** On April 24, DWR announced that it is increasing the allocation of 2018 State Water Project (SWP) water from 20% to 30%. **(c)** General Manager Davis gave an update of the construction that is taking place for the Fiesta Recharge Facility Project.

(2) General Agency Updates: (a) Sites Reservoir: General Manager Davis reported that last week each of the individual applicants for the \$2.7 billion Prop 1 bond money engaged in verbal reviews with the Water Commission staff. On Friday, May 4, the Water Commission announced updated numbers for potential grant monies. Sites Reservoir projected allocated amount was increased from \$933 million to \$1.008 billion. The Water Commission is to finalize the grants in July. **(b) New Water Bond Initiative:** Gerald (Gerry) Meral's water bond initiative was found to be eligible for California's November 2018 ballot. The measure authorizes funds to be designated towards Oroville Reservoir Spillway repairs. There is also a water bond initiative for the June 2018 ballot. **(c) Cooperative Agreement with Regional Water Control Board:** The RWCB agreed to an amendment to our modeling agreement to no longer do modeling every six years, as the modeling results demonstrate that there are no signs of harm to the groundwater basins. Modeling will take place every 10 years, or as needed.

B. General Counsel Report: General Counsel Ferre provided a written report on AB 3045. An act to amend Section 12805 of the Government Code and to add Article 5 to Chapter 2 of Division 1 of the Water Code, relating to water. The bill would place the State Water Project under an independent commission instead of DWR.

C. Directors Reports: (1) President Fenn reported on Beaumont's City Council held on April 17th. An update on Beaumont's waste water treatment plant was provided. Beaumont's sewer rate study was also discussed. Approval was given on its Proposition 218 notice, a sewer rate increase. **(2) Director Duncan** reported on Eastern Municipal Water District & Rancho Water District's school program. **(3) Director Thompson** reported on the Special Water Rate meeting that has held by BCVWD. He also reported on the SGPRWA meeting noting that General Manager Dan Jaggars (BCVWD) presented a "tool" pertaining to a regional water need plan. **(4) Director Lehtonen** stated that he too attended the SGPRWA meeting and felt that the tool on the regional water supply was well done. He also stated that BCVWD is working on security strategies for its pond facilities.

6. New Business:

A. Consideration of Resolution 2018-01 – Adopting Guidelines for Implementing California Environmental Quality Act (CEQA): A staff report and a copy of the Resolution were included in the agenda packet. Legal Counsel Jeff Ferre stated that every year local agencies are required to adopt updated local CEQA guidelines. Legal Counsel Ferre explained the need for CEQA guidelines. He noted that there have been some important changes in the law and they have been incorporated into the 2018 Update to the Agency's Local Guidelines. Staff recommends that the Board adopt Resolution 2018-01 to update the Agency's local guidelines for 2018. Director Ball made a motion, seconded by Director Castaldo to adopt Resolution 2018-01. Motion passed 6-0, with Director Stephenson absent.

B. Consideration and Possible Action on Water Exchange between Casitas Municipal Water District, the City of Ventura, and SGPWA: A staff report and a copy of the water exchange agreement were included in the agenda packet. The purpose of this proposed Board action is to approve entering into an agreement for a

water exchange with Casitas MWD and the City of Ventura that would supplement the Agency's water supplies this year. This item has been discussed previously during closed session. General Manager Davis reviewed the terms of the agreement with the Board. Under the terms, at a 30% SWP allocation, the Agency would obtain 4500 AF of water this year for a cost of approximately \$495 per AF plus variable costs. Staff recommended to the Board that they approve a motion as follows:

- Making findings that the exchange of State Water Project Table A Water is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Water Code section 1729, State CEQA Guidelines sections 15282(u), 15301, and 15061(b)(3) as said findings are further set forth in this staff report.
- Approve the Agreement between San Geronio Pass Water Agency and the City of Buenaventura and Casitas Municipal Water District for the Exchange of 2018 State Water Project Table A Water; substantially in the form as included enclosed with this staff report.
- Authorize the General Manager to sign the Agreement and to make any nonmaterial changes to the final version of the Agreement, subject to review by legal counsel;
- Authorize staff to complete any and all action which may be required to document the CEQA exemption including the filing of a Notice of Exemption; and
- Authorize staff to develop and execute any agreements or documentation which may be required by DWR for this transaction.

Director Thompson made a motion, seconded by President Fenn to approve all five staff recommendations Motion passed 6-0, with Director Stephenson absent.

C. Consideration and Possible Action to Authorize Staff to Open a Payroll Checking Account at Bank of Hemet: A staff report was included in the agenda packet. President Fenn noted that this item was discussed extensively during a previous Finance and Budget workshop. Director Duncan made a motion to approve, seconded by Director Lehtonen. Motion passed 6-0, with Director Stephenson absent.

D. Consideration and Possible Action to Approve a Mutual Aid Agreement with San Bernardino Municipal Water District and Metropolitan Water District: A staff report and a copy of the Agreement for Mutual Assistance were included in the agenda packet. General Manger Davis informed the Board that SBVMWD was recently notified by the San Manuel tribe that they are in the planning phase of making structural changes to the casino, necessitating a relocation of a portion of the Foothill pipeline; the tribe will pay for the relocation. EBX pipeline must be shut down in order to perform this work. General Manager Davis stated that a Mutual Aid Agreement with SBVMWD and Metropolitan would enable the Agency to continue deliveries of SWP water during a Foothill Pipeline shutdown. In addition, signing this agreement will give us the opportunity to help Metropolitan or SBVMWD should they need it, (examples of a shutdown would be due to an earthquake, or a flood, etc.) and in the same respect there may be a time that our Agency would we need their assistance. SBMVWD approved this agreement last week. General Manager Davis reviewed the agreement with the Board. Staff recommends that the Board take the following actions:

- Approve the mutual aid agreement and authorize the General Manager to sign it;
- Authorize the General Manager to sign the Request for Assistance for aid during the relocation; and
- Authorize the General Manager to sign the forthcoming DWR SWPAO agreement enabling the water to flow to the appropriate agencies through the appropriate pipes.

After discussion, Director Ball made a motion, seconded by Director Thompson to approve all three recommendations. Motion passed 6-0, with Director Stephenson absent.

E. Consideration and Possible Action on Letter Opposing AB 3045: A staff report and a copy of Assembly Bill No. 3045 were included in the agenda packet. General Manager Davis noted that this particular item does not fall within the Agency's legislative principles. He explained that in light of the Oroville spillway event last year, Assemblyman Gallagher (Rep) has introduced a bill that would drastically change the management of the State Water Project. The bill was originally intended only to move the Division of Safety of Dams out of the Department of Water Resources and into the Natural Resources Agency. However, the bill has been amended to move the State Water Project out of DWR and under a new commission that would not be set up to represent those who pay for the State Water Project. Staff recommends that the Board authorize the General Manager to sign a letter of opposition to this bill. The letter will likely be signed by a large majority of State Water Contractors, and is being drafted at this moment. Staff will make the letter available to the Board once it is signed. After discussion, Director Castaldo made a motion, seconded by President Fenn to authorize staff to sign a group letter opposing AB No. 3045. Motion passed 6-0, with Director Stephenson absent.

7. Topics for Future Agendas: 1) President Fenn requested a summary of upcoming exchanges to be provided at an upcoming workshop. He also requested that in the future staff is to provide an updated summary when the Agency is engaging in a water deal that is an exchange. 2) Director Thompson would like to know what the contractor's scope of work is, as well as the timeline for the Fiesta project. 3) Director Castaldo asked for discussion on pending issues that need to be done for the Fiesta project; specially fencing.

8. Announcements:

- A. 2018 ACWA Spring Conference May 8 – 11, Sacramento
- B. Engineering Workshop, May 14, 2018 at 1:30 p.m.
- C. Regular Board Meeting, May 21, 2018 at 1:30 p.m.
- D. San Geronio Pass Regional Water Alliance, May 23, 2018, 5:00 pm, Banning City Hall

President Fenn adjourned the meeting at: 2.37 pm

Draft - Subject to Board approval
Jeffrey W. Davis, Secretary of the Board

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, CA 92223
Minutes of the
Board of Directors Engineering Workshop
May 14, 2018

Directors Present: David Fenn, President
Blair Ball, Director
David Castaldo, Director
Steve Lehtonen, Director
Leonard Stephenson, Director
Michael Thompson, Director

Directors Absent: Ron Duncan, Vice President

Staff Present: Jeff Davis, General Manager
Tom Todd, Finance Manager
Cheryle Stiff, Executive Assistant

1. Call to Order, Flag Salute and Roll Call. The Engineering workshop of the San Gorgonio Pass Water Agency Board of Directors was called to order by President Fenn at 1:30 p.m., May 14, 2018 in the Agency Board room at 1210 Beaumont Avenue, Beaumont, California. President Fenn led the Pledge of Allegiance to the flag. A quorum was present.

2. Public Comment. No members of the public wished to speak at this time.

3. Presentation and Discussion on California Water Fix and Associated Issues. A draft resolution and draft gap funding agreement were included in the agenda package. General Manager Davis opened by discussing the California Water Fix, including description of a legislative oversight hearing and a luncheon address by Governor Brown that he attended last week. He then presented a detailed Power Point describing the Cal WaterFix, its goals, cost allocation principles, and a summary of side deals that the Agency is currently involved with that would increase its yield from the WaterFix. He then reviewed the draft resolution that he will include in the May 21 Board agenda package, along with the draft gap funding agreement that has been distributed to State Water Contractors. He informed the Board that next week he will ask them to approve the Cal WaterFix up to a financial participation of 0.43% of the SWP portion, approve a gap funding agreement, and approve membership in the proposed Finance JPA. After discussion, it was the consensus of the Board that the Agency also join the Design and Construction (DCA) JPA. General Manager Davis noted in his presentation that the Cal WaterFix will lower the Agency's marginal cost of water from the State Water Project and therefore is very beneficial to the region.

4. Discussion on State Water Project Contract Extension. A copy of this proposed amendment extending the State Water Project contract to 2085 was included in the agenda package. General Manager Davis briefly described the amendment and why it is important to the Agency and other Contractors. He noted that the great majority of the language in the amendment relates to transitioning to pay-as-you-go funding from the current SWP funding methodology. He added that the amendment does create two new funds, a SWRDS reinvestment account and a SWRDS support account, and creates a new committee, the SWRDS Finance Committee. These additions to the contract will enable DWR and the Contractors to manage the SWP in

a more fiscally responsible manner. He indicated that he will bring this amendment to the Board for consideration within 60 days after execution by DWR, which will probably occur in June or July.

5. Discussion of Potential Future EBX Extension to Banning and Cabazon. A list of issues related to this potential infrastructure project was included in the agenda package. General Manager Davis reviewed the history of this project with the Board and identified some of the key issues that the Board would have to decide on prior to moving forward with construction. After a lengthy discussion, it was the consensus of the Board that the Agency is not ready to move forward with this project at this time, in no small measure due to SGMA. The Board recognized that it would be beneficial to complete the Groundwater Sustainability Plan for the San Geronio Pass sub-basin prior to making any decisions on this pipeline project.

6. Announcements

- A. Regular Board Meeting, May 21, 2018 at 1:30 pm
- B. San Geronio Pass Regional Water Alliance, May 23, 2018 at 5:00 pm
– Banning City Hall
- C. Finance and Budget Workshop, Tuesday May 29, 2018 at 1:30 pm

7. Adjournment

President Fenn adjourned the meeting at 3:34 pm

Draft—subject to Board approval

Jeff Davis, Secretary to the Board

0617

MEMORANDUM

TO: Board of Directors

FROM: General Manager

RE: Consideration and Possible Action To Adopt Resolution No. 2018-02 Authorizing Participation In California WaterFix And Authorizing Execution Of Financing Implementation Agreements and Related Documents

DATE: May 21, 2018

Summary:

Staff has been discussing the California WaterFix (“CWF”) with the Board for several years, and the Bay Delta Conservation Plan, its predecessor, for several years prior to that. The purpose of this proposed Board action is to obtain approval for participation in CWF. If participation is approved, the Agency’s financial obligations would be limited to the Agency’s percentage share of the State Water Project (“SWP”) share of CWF. The Agency’s share of the SWP share is 0.43%. If participation is approved, the authority of the General Manager to implement the Agency’s participation would be limited to the actions authorized by Resolution No. 2018-02. The General Manager would not be authorized to increase or change the Agency’s financial obligations.

Background:

The Sacramento/San Joaquin Delta (“Delta”) has been in decline for decades for a multitude of reasons. Wastewater treatment plant effluent, disposal of ballast water from ships, overfishing, loss of fish habitat, unscreened water diversions in the Delta, upstream diversions, invasive species, and drought have caused some fisheries to decline significantly. Environmental permits, primarily in the form of Biological Opinions issued by two fisheries agencies, have reduced water exports, thus reducing water supply reliability for those who depend on the SWP and the Central Valley Project.

A series of programs, going back to the 1990's, has sought to find a comprehensive solution to the dual problems of ecosystem failure and decline in water supply reliability. The CalFed process was initiated in the late 1990's and was followed by the Bay Delta Conservation Plan, which became CWF a few years ago. An EIR/EIS has been completed and a number of permits required to construct the twin tunnels, that are the cornerstone of CWF, have been approved. Some permits are still to be issued, but are expected to be completed by the end of 2018.

Detailed Report:

Construction of CWF will be managed under contract with the Department of Water Resources ("DWR") through a Delta Conveyance Design and Construction Joint Exercise of Powers Authority ("DCA"). A copy of the DCA JPA Agreement is included in the agenda package. In coordination with DWR, the DCA will design and construct CWF facilities with the goal of ensuring that they are delivered on time, on budget and in accordance with approved specifications. The DCA will dissolve upon completion and commissioning of CWF, which would then be turned over to DWR.

The SWP share of CWF costs will be paid by SWP Contractors in accordance with their long term water delivery contracts with DWR. With the exception of five north of the Delta SWP Contractors that would not receive any direct benefit from CWF, SWP Contractors will contribute toward the SWP share of CWF costs in proportion to their Table A contract amount. The Agency's participation in the SWP equals 0.41%. The Agency's participation in the SWP share of CWF would increase to 0.43% as a result of the nonparticipation by the north of Delta SWP Contractors. Therefore, in no event will the Agency's share of the SWP share of CWF costs exceed 0.43%.

DWR plans to issue a series of new bonds, to be called the California WaterFix Revenue Bonds, in order to finance the SWP share of capital costs for CWF. Proceeds from the sale of these bonds would be used to fund construction, planning, and other preconstruction costs, and to pay for costs of bond issuance.

However, since the marketability of said bonds may be affected by judicial challenges to CWF, DWR proposes to sell these bonds to the Delta Conveyance Financing Joint Powers Authority (“Finance JPA”) which will be comprised of SWP Contractors. A copy of the Finance JPA Agreement is included in the agenda package. Although it is not considered likely that the judicial challenges would prevent CWF from moving forward, if DWR did ultimately receive an unfavorable ruling, the Finance JPA would become the owner of CWF. Also in that event, it is possible that the Agency would have to fund its portion of the SWP share of CWF by using revenues from the State Water Project tax.

As detailed in the presentation at last week’s Engineering workshop, and in Resolution No. 2018-02, the Agency’s share of the SWP share of CWF is 0.43% which equates to an estimated amount of \$47 million. Should the Agency agree in the future to enter into long-term leases of additional portions of CWF from other SWP Contractors, this could increase the Agency’s share of the SWP share of CWF to approximately 1.63% which would equate to approximately \$187 million. It should be noted that this estimate is approximately the same as the Agency’s combined cost of EBX 1 and EBX 2. No such additional leases or other transactions are being proposed as part of this Board action and any such future decisions would be subject to prior approval by the Board.

Until the Finance JPA sells its first issue of bonds, DWR plans to request the short-term contribution of additional “gap” funding from willing SWP Contractors for ongoing pre-construction costs such as geotechnical studies, early design, and some right of way procurement. Such gap funding will be provided through “Gap Funding Agreements” between DWR and each SWP Contractor who is willing to participate. When the first bonds are issued, the SWP Contractors who provided such gap funding would be reimbursed for the payments they made through a Gap Funding Agreement. The budget for this pre-construction work is estimated to be \$133 million. The Agency’s share of the SWP share of such costs would be approximately \$189,000. It is proposed that the Agency enter into a Gap Funding Agreement which would provide for payments by the Agency in monthly installments in 2019. Such payment would be made by the Agency through the regular DWR invoices that are

issued to the Agency. The proposed Gap Funding Agreement is included in the agenda package.

Staff's recommendation is that the Board authorize the following: (a) funding the Agency's share of the SWP share of CWF; (b) participation as a member of the Finance JPA through execution of the Finance JPA Agreement; (c) participation as a member of the DCA through execution of the Design and Construction JPA Agreement; and (d) execution of a Gap Funding Agreement. It should be noted that in the event CWF is not constructed, the Agency would not get its gap funding contribution refunded.

Fiscal Impact:

Should the Board decide to approve and participate in CWF, and assuming CWF is constructed, it is anticipated that the Agency's average cost of water would be reduced, while at the same time augmenting the Agency's supplies from the SWP. Staff believes that in the long term, the investment in CWF presents the Agency with a wise investment, at a reasonable cost, in order to provide water resources to the Agency, the region, local taxpayers and ratepayers.

CWF is anticipated to be online by 2033. In the meantime, the Agency would contribute to bond payments during construction. As noted above, the Agency's share of the SWP share of CWF is 0.43%, or approximately \$47 million. This amount would be paid over 30-40 years, depending on decisions made by the Finance JPA regarding the sale of bonds. Staff has previously reviewed a likely payment schedule with the Board and the ability of the Agency to make its payment obligations through its SWP tax revenue.

Should the above-mentioned judicial challenges result in rulings that are not favorable to DWR, the Agency, as with all other SWP Contractors, would have to pay future CWF costs through revenue sources other than the SWP tax. This could include sources such as the Agency's water rate, general fund tax revenues, and potentially rates and charges which are currently in place and/or can be adopted by the Agency under the Agency Act.

The immediate fiscal impact will be the expenditure of \$189,000 in gap funding in 2019 from the Agency's debt service fund. The Board is well aware of the Agency's reserves and that it is well able to handle this expenditure without any negative consequences. The funds are anticipated to be returned in 2020, upon sale of the first bond issue for CWF.

While the financial impact of CWF will be substantial, it will greatly improve the Agency's ability to meet future water demands in the region, and it is affordable to the Agency based on projected revenues.

Recommendation:

Staff recommends that the Board approve Agency participation in CWF by taking the following actions, as discussed at the May 14 Engineering workshop. Therefore, it is recommended that the Board adopt Resolution 2018-02 in order to authorize support of, and participation in, CWF and authorize the General Manager to implement said participation. Resolution 2018-02 provides for the following:

- In its limited role as a responsible agency under the California Environmental Quality Act ("CEQA") the Agency would: (a) consider DWR's certified Final EIR; (b) adopt/affirm DWR's Findings with respect to potentially significant impacts; (c) adopt/affirm a Statement of Overriding Considerations in view of potentially significant impacts and unavoidable impacts; and (d) adopt the Mitigation Monitoring and Reporting Program.
- Approve participation in CWF not to exceed 0.43% of the SWP share of CWF;
- Authorize execution of the Gap Funding Agreement;
- Authorize execution of the Finance JPA agreement, thus becoming a member of the Finance JPA; and
- Authorize execution of the Delta Conveyance Design and Construction JPA agreement, thus becoming a member of the DCA.

RESOLUTION NO. 2018-02

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SAN GORGONIO PASS WATER AGENCY
AUTHORIZING SUPPORT OF, AND PARTICIPATION
IN, CALIFORNIA WATERFIX AND AUTHORIZING
THE GENERAL MANAGER TO NEGOTIATE,
EXECUTE AND DELIVER VARIOUS FINANCING
IMPLEMENTATION AGREEMENTS AND RELATED
DOCUMENTS**

WHEREAS, the San Gorgonio Pass Water Agency (“Agency”) is a state water project contractor (“SWP Contractor”) formed under special act legislation set forth in the Water Code Uncodified Acts, Act 1100. The Agency was formed for the purpose of importing water from the State Water Project (“SWP”) into the San Gorgonio Pass area; and

WHEREAS, the mission of the Agency is to import water and to protect and enhance local water supplies for use by present and future water users and to sell imported water to local water agencies within the Agency’s service area; and

WHEREAS, the Agency has a contract with the California Department of Water Resources (“DWR”) for 17,300 acre-feet per year of SWP water; and

WHEREAS, the California WaterFix (“CWF”) is a critical component of the California Water Action Plan which is the State of California’s blueprint for “a sustainable and resilient future”; and

WHEREAS, the CWF is essential to protecting and assuring the SWP’s future reliability by addressing the Sacramento-San Joaquin River Delta’s ecosystem and levee system which are increasingly vulnerable to earthquakes, flooding, saltwater intrusion, climate change, and environmental degradation; and

WHEREAS, DWR, acting as lead agency, prepared and processed a Final Environmental Impact Report (“EIR”) for CWF pursuant to the requirements of the California Environmental Quality Act (“CEQA”). The Final EIR was certified and CWF was approved by DWR on July 21, 2017. DWR also adopted the Findings of Fact (“Findings”), Statement of Overriding Considerations (“SOC”) and the Mitigation Monitoring and Reporting Program (“MMRP”), and filed a Notice of Determination (“NOD”). The Final EIR identifies the SWP Contractors as possible responsible agencies, under CEQA, for actions related to CWF since the Agency is a SWP Contractor; and

WHEREAS, various SWP Contractors (collectively, “CWF Project Participating Members”) have committed to, or will be committing to, assisting DWR in the financing of CWF in the following ways (collectively, “CWF Financial Arrangements”):

1. The CWF Project Participating Members have proposed forming a joint exercise of powers authority (“Finance JPA”) that would facilitate, through different actions, the issuance of revenue bonds by DWR (“California WaterFix Revenue Bonds”) to finance the SWP share of capital costs, construction, planning and other preconstruction costs of CWF; and

2. Since the marketability of the California WaterFix Revenue Bonds may be affected by judicial challenges to CWF, DWR plans to sell these revenue bonds directly to the Finance JPA through a “private placement;” and

3. In turn, the Finance JPA would finance its purchase of the California WaterFix Revenue Bonds by issuing its own bonds (“Finance JPA Bonds”); and

4. The CWF Project Participating Members have proposed supporting the Finance JPA Bonds issued by the Finance JPA by protecting the purchasers of the Finance JPA Bonds from the risk of nonpayment or invalidity of the California WaterFix Revenue Bonds. Such a risk could result from a successful challenge to the authority of DWR to repay the California WaterFix Revenue Bonds from proceeds of charges imposed by DWR on SWP Contractors through DWR’s regular statement of charges. Such a successful challenge may also result in the inability of SWP Contractors to use proceeds of SWP Taxes to pay such obligations. This protection would be accomplished through one or more agreements (any such agreement to be referred to herein as a “Support Agreement” and any such Support Agreement or other form of support of the California WaterFix Revenue Bonds shall be referred to herein as “Support”), including, without limitation, in the form of debt service Support Agreements, or through the purchase by the CWF Project Participating Members of the California WaterFix Revenue Bonds or other property through installment purchase agreements. Said installment purchase agreements may obligate SWP Contractors to make payments from sources other than SWP Tax proceeds. Said Support and/or Support Agreements would be entered into by CWF Project Participating Members regardless of whether any such CWF Project Participating Members has also joined the Finance JPA; and

5. It has been proposed that the Finance JPA and DWR enter into a security agreement (“Security Agreement”) pursuant to which DWR would agree that if it defaults in the payment of debt service of the California WaterFix Revenue Bonds or other agreed-upon conditions, DWR would transfer to the Finance JPA, or another designated entity, all of DWR’s right, title and interest in CWF and use its efforts to assist any other necessary transfers to permit the Finance JPA, or other designated entity, to construct, own and operate CWF; and

6. Until the issuance of the first California WaterFix Revenue Bonds, DWR plans to request the short-term contribution of additional funds from willing SWP Contractors for ongoing pre-construction costs. Such gap funding would be provided through “Gap Funding Agreements” between DWR and each SWP Contractor who is willing to participate. When the first California WaterFix Bonds are issued, the SWP Contractors who provided such gap funding would be reimbursed for the payments they made through a Gap Funding Agreement; and

WHEREAS, various SWP Contractors have committed to, or will be committing to, the formation of a Delta Conveyance Design and Construction Joint Exercise Of Powers Authority (“DCA”) for the implementation of the CWF, providing fiscal control and oversight and protection of the public’s investment. The DCA would undertake the construction of CWF through a contract with DWR; and

WHEREAS, the Agency’s participation allocation in the SWP under the State Water Contracts (determined by reference to Table A of such State Water Contracts) equals 0.41% of the total SWP cost. The Agency’s participation in the SWP share of CWF is 0.43% since

SWP Contractors located north of the Sacramento-San Joaquin River Delta will not be participating in the CWF Financial Arrangements. Therefore, in no event shall the Agency's share of the cost of CWF and/or any CWF Financial Arrangements exceed 0.43% of the estimated total capital costs of the SWP share of CWF; and

WHEREAS, the Board of Directors of the Agency desires to authorize the General Manager of the Agency to negotiate, execute, and deliver agreements and documents associated with CWF, including the CWF Financial Arrangements which may be necessary, in order to effect the Agency's participation in the CWF, consistent with the Agency's percentage participation allocation of the total SWP share of the cost of CWF.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY DOES HEREBY FIND AND DETERMINE AND ORDER AS FOLLOWS:

1. Incorporation of Recitals All of the foregoing Recitals are true and correct and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

2. Approval of the Agency's Financial Participation in CWF The Agency Board hereby authorizes and approves the Agency's participation in the financing of CWF as set forth in more detail in this Resolution; provided that the Agency's participation in any financing of CWF shall not exceed 0.43% of the estimated total capital costs of the SWP share of CWF.

3. CEQA Compliance As one of the responsible agencies for actions related to the Final EIR for CWF, prior to taking action on CWF, the Agency has considered DWR's certified Final EIR and the impacts of CWF as disclosed and analyzed in the Final EIR. DWR, as the Lead Agency, is ultimately responsible for ensuring that feasible mitigation measures are implemented. The Agency hereby takes the following actions but only to the extent of the Agency's limited role as a responsible agency:

(a) has considered DWR's certified Final EIR and the impacts of the CWF as disclosed and analyzed in the Final EIR.

(b) hereby adopts/affirms DWR's Findings with respect to each potentially significant impact of the CWF.

(c) hereby adopts/affirms a SOC in view of potentially significant and unavoidable impacts, and

(d) hereby adopts the MMRP in view of the Agency funding its share of project costs, including the mitigation to be carried out by DWR or others.

4. Authorization of General Manager The Agency Board hereby authorizes the General Manager of the Agency, and any of the designees of the General Manager, to do any and all things necessary or convenient, in the best interests of the Agency, to effect any financing of CWF through the CWF Financial Arrangements, including the Finance JPA, and to participate in the DCA (collectively referred to herein as "Agency Participation Action") consistent with the CWF Financial Arrangements as set forth in this Resolution. The General

Manager, or his/her designee, is hereby authorized to enter into any and all agreements and documents that the General Manager, or his/her designee, determines, in his or her reasonable discretion, to be necessary or convenient, in the best interests of the Agency, to carry out any Agency Participation Action, and to execute all papers, documents, certificates, agreements or other instruments that may be required in order to carry out any Agency Participation Action or to evidence said authority and its exercise. In implementing these actions, the General Manager shall be authorized to use such reasonable assumptions, methods, approaches and calculations he/she believes, in good faith, to be consistent with the authorizations herein and necessary to the implementation of the matters provided for in this Resolution. Any and all actions by the General Manager as referenced herein shall be limited to implementation of the Agency Participation Action as set forth in this Resolution. The General Manager shall not be authorized to take actions which are outside the scope of the Agency Participation Action or otherwise increase or change the Agency's financial or other obligations in regard to CWF.

5. Limitation On Agency Participation Action The Agency shall not make financial commitments to CWF in excess of 0.43% of the estimated total capital costs of the SWP share of CWF. Said participation percentage may increase in the event the Agency elects to enter into agreements with other SWP Contractors to lease, obtain, or otherwise utilize portions of said SWP Contractors' shares of CWF. Said agreements could increase the Agency's share of the CWF Financial Arrangements. No such agreements will be entered into unless or until the Board takes action to approve said agreements in the future. The terms of bonds issued for the project shall not exceed 40 years and the total interest cost on debt issued shall not exceed 8%.

6. Effective Date The President of the Board shall sign this Resolution and the Secretary of the Board shall attest thereto, and this Resolution shall be in full force and effect immediately upon adoption.

7. Severability If any section, subsection, clause or phrase in this Resolution is for any reason held invalid, the validity of the remainder of this Resolution shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof be held invalid.

ADOPTED AND APPROVED this _____ day of _____, 2018

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President, Board of Directors
San Geronio Pass Water Agency

ATTEST:

Secretary, Board of Directors
San Geronio Pass Water Agency

JOINT POWERS AGREEMENT
FORMING
THE DELTA CONVEYANCE DESIGN AND
CONSTRUCTION JOINT POWERS
AUTHORITY

Effective __, 2018

WHEREAS, the Parties desire that the Conveyance Project be completed in a safe, timely, cost-effective and efficient manner, and

WHEREAS, DWR has determined that the timely and efficient design and construction of the Conveyance Project will require additional resources not available to DWR and that, therefore, it is in the best interest of the State of California and its citizens to partner with the Parties in the design and construction of the Conveyance Project; and

WHEREAS, the Delta Conveyance Design and Construction Joint Powers Authority (“Construction Authority”) proposes to enter into an agreement with DWR establishing that the Construction Authority will undertake those activities required to complete the design and construction of the Conveyance Project; and

WHEREAS, the agreement with DWR is intended to obtain cost savings by allowing more flexible means of designing, contracting, constructing, and financing the Conveyance Project; and

WHEREAS, the Parties each have and possess the powers to design, construct, and implement water infrastructure projects; and

WHEREAS, the Parties each desire to exercise those powers regarding the design and construction of the Conveyance Project as provided in the Joint Exercise of Powers Agreement between the Department of Water Resources and the Construction Authority, and

WHEREAS, the aforementioned activities may best be achieved through the cooperative action of the Parties operating through a joint powers authority; and

WHEREAS, the Parties intend that upon acceptance of the Conveyance Project by DWR, the Construction Authority will be dissolved.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties agree as follows:

ARTICLE I: DEFINITIONS

For the purpose of this Agreement, the meaning of the terms hereinafter set forth shall be the following:

- 1.1 “Addenda” means any addenda, amendments, modifications, supplements or exhibits to the Agreement that are executed, approved or added in accordance with the terms of this Agreement after the Effective Date.
- 1.2 “Agreement” means this Joint Powers Agreement, including Exhibits A and B attached, which creates the Delta Conveyance Design and Construction Joint Powers Authority.

- 1.20 “Secretary” means the Secretary of the Delta Conveyance Design and Construction Joint Powers Authority appointed in accordance with Section 6.3.
- 1.21 “Section” means a section, subsection or sub-subsection within an Article of this Agreement and, unless otherwise specified, refers to all numbered and lettered divisions within that section, subsection or sub-subsection.
- 1.22 “State” means the State of California.
- 1.23 “State Water Project” or “SWP” means the State Water Facilities, as defined in California Water Code section 12934(d).
- 1.24 “Treasurer” means the Treasurer of the Conveyance Project Coordination Agency appointed in accordance with Section 6.3.
- 1.25 “Vice-President” means the Vice-President of the Delta Conveyance Design and Construction Joint Powers Authority appointed in accordance with Section 6.7.

ARTICLE II: CREATION OF THE CONVEYANCE PROJECT COORDINATION AGENCY

There is hereby created pursuant to the Joint Exercise of Powers Act, California Government Code section 6500 *et seq.*, a public entity to be known as the “Delta Conveyance Design and Construction Authority.” Delta Conveyance Design and Construction Joint Powers Authority shall be a public entity separate from its Members.

ARTICLE III: TERM

This Agreement shall become effective when at least two Members (1) execute this Agreement and (2) agree there is sufficient representation to fund the Construction Authority’s Stand Up Costs.

This Agreement shall remain in effect until terminated pursuant to the provisions of Article XIV (**Withdrawal of Members**) of this Agreement.

ARTICLE IV: PURPOSES AND POWERS

4.1 Purpose. The purpose of this Agreement is to establish a public entity separate and apart from its Members to undertake those activities required to complete the design and construction of the Conveyance Project.

4.2 Powers. The Delta Conveyance Design and Construction Joint Powers Authority shall have the power in the name of the Construction Authority to exercise those common powers, and all independent, complete and/or supplementary powers authorized by Government Code section 6584 *et seq.* or as otherwise authorized by law, necessary or appropriate to design and construct the Conveyance Project including, but not limited to, the following:

Prior to such event, to the extent required under Government Code section 6509, the Construction Authority shall exercise its powers in the manner and according to the methods provided under the laws applicable to the Metropolitan Water District of Southern California.

4.4 Except as expressly provided herein, nothing in this Agreement shall be construed as affecting the rights or obligations of the Parties, including but not limited to any rights or obligations pursuant to contracts for delivery of water from the CVP or SWP.

ARTICLE V: MEMBERSHIP

5.1 Members. Membership in the Delta Conveyance Design and Construction Joint Powers Authority shall be limited to those public entities (1) that possess the common powers described in Article IV (**Purposes and Powers**) of this Agreement, (2) that will bear at least some of the financial obligation for the Conveyance Project, and (3) that execute this Agreement within five (5) months of it becoming effective and any addenda thereto. The Members will be listed in Exhibit A and, upon direction from the Board, Exhibit A may be modified without constituting an amendment to this Agreement.

5.2 New Members. It is recognized that entities, other than the original Members may wish to participate in the Construction Authority. Additional entities may become Members of the Authority upon such terms and conditions as provided by the Board upon affirmative vote of four (4) out of five (5) or 80% of all the Directors, whichever number is less.

ARTICLE VI: DIRECTORS AND OFFICERS

6.1 Board of Directors. The Delta Conveyance Design and Construction Joint Powers Authority shall be governed by a Board of Directors.

6.1.1 Initially, there shall be up to five (5) Directors and five (5) Alternative Directors, with each pair appointed by and representing the following Members or class of Members:

- i. Metropolitan Water District of Southern California (State Water Project)
- ii. Kern County Water Agency
- iii. Santa Clara Valley Water District
- iv. State Water Project contractor, selected by otherwise non-represented State Water Project contractors.
- v. Metropolitan Water District of Southern California (Non State Water Project capacity)

The number of Directors may be expanded to seven (7) Directors and seven (7) Alternative Directors if, at any point after the execution of this Agreement, there are three or more CVP contractors, other than Santa Clara Valley Water District, that desire to become Members. CVP contractors may be assigned Director and Alternative Director positions upon such terms and conditions as provided by the Board upon affirmative vote of four (4) out of five (5) or 80% of all the Directors.

6.1.11 The Board may adopt from time to time such bylaws, rules and regulations for the conduct of its affairs as may be required.

6.2 Officers. Officers of the Construction Authority shall be a President, Vice President, Secretary, and Treasurer. Any number of offices may be held by the same person provided that the President shall not also serve as the Vice President, Secretary, or Treasurer. The Vice President, or in the Vice President's absence, the Secretary shall exercise all powers of the President in the President's absence or inability to act. The President, the Vice President, and the Secretary must be members of the Board of Directors. The President shall chair meetings of the Board. In the absence of the President, the Vice President shall be the chair such meetings. In the absence of the President and Vice President, the Secretary shall chair the meeting.

6.3 Appointment of Officers. Officers shall serve two (2) year terms and, except for the offices of President and Vice President, serve at the pleasure of the Board. The offices of President and Vice President shall be filled in accordance with Exhibit B and the terms of the initial President and Vice President shall commence at the initial Board meeting or as soon as practical thereafter. As provided for in Article VII (**BOARD MEETINGS**) of this Agreement, the Secretary and Treasurer shall be chosen at the initial Board meeting or as soon as practical thereafter. The Secretary and Treasurer may serve for multiple consecutive terms. Any Officer may resign at any time upon written notice to the Board.

6.3.1 The offices of President and Vice President shall rotate in accordance with Exhibit B. However, Exhibit B shall not become effective until the Members that will initially fill the offices of President and Vice President, as prescribed in Exhibit B, have executed this Agreement. The Board may choose an interim President and Vice-President that will serve until Exhibit B becomes effective. Exhibit B may be modified by a unanimous vote of all the Directors without constituting an amendment to this Agreement.

ARTICLE VII: BOARD MEETINGS

7.1 Initial Meeting. The initial meeting of the Board of Directors shall be held within 15 days of completion of the appointments of initial Directors and Alternative Directors, and held in Sacramento, California. The Board shall, at its first meeting or as soon thereafter as practicable, appoint the Secretary and Treasurer, and select an Auditor. Unless changed by the Board, the principle office of the Construction Authority shall be located in Sacramento County.

7.2 Time and Place. The Board shall meet at least twice per year at a time and place set by the Board, and at such other times as may be determined by the Board.

7.3 Special Meetings. Special meetings of the Directors may be called by the President or a majority of all the Directors.

7.4 Conduct. All meetings of the Board, including special and emergency meetings, shall be noticed, held, adjourned, and conducted in accordance with the Ralph M. Brown Act, to the extent applicable. The Board and Alternate Directors may use tele-conferencing or video-conferencing in connection with any meeting in conformance with and to the extent authorized by the applicable laws.

11.1 General. The Board shall establish and maintain such funds and accounts as may be required by generally accepted utility accounting practice.

11.2 Fiscal Year. Unless the Directors decide otherwise, the fiscal year for the Authority shall be July 1 through June 31.

11.3 Auditor.

11.3.1 An Auditor shall be chosen annually by, and serve at the pleasure of the Board. As provided for in Article VII (**Director Meetings**) of this Agreement, the Auditor shall be chosen at the first Board meeting. An Auditor may serve for multiple consecutive terms. The Auditor may resign at any time upon written notice to the Board.

11.3.2 The Auditor shall make an annual audit of the accounts and records of the Authority. A report shall be filed as a public record with the Auditor of the county where the Authority is domiciled consistent with Government Code section 6505, and with each agency that is a Member. Such report also shall be filed with the Secretary of State within twelve (12) months of the end of the fiscal year under examination.

11.4 Treasurer. The Board, or its designated representative, shall contract with an independent certified public accountant or the Treasurer or Chief Financial Officer of any Member, to serve as Treasurer of the Authority. The Treasurer shall be the depository of and have custody of funds, subject to the requirements of Government Code sections 6505-6505.6. The Treasurer shall have custody of all money of the Construction Authority from whatever source and shall perform the duties specified in Government Code section 6505.5. The Treasurer shall be bound in accordance with Government Code section 6505.1 and shall pay demands against the Construction Authority that have been approved by the Board. All funds of the Construction Authority shall be strictly and separately accounted for, and regular reports shall be rendered to the Board of all receipts and disbursements at least quarterly during the fiscal year. The books and records of the Construction Authority shall be open to inspection by a Director at all reasonable times upon reasonable notice.

ARTICLE XII: BUDGET AND EXPENSES

12.1 Budget. The Board shall adopt an annual budget before the beginning of a fiscal year. The budget shall include, at a minimum, individual contract estimates with a contingency amount and all administrative costs to be incurred by the Construction Authority to perform the purposes of this Agreement.

12.2 Construction Authority Stand Up Costs. The Construction Authority Stand Up Costs, which is to be used for the purpose of funding general overhead and administrative expenses for the initial operations of the Construction Authority, is budgeted not to exceed one million dollars (\$1,000,000.00). Each Member shall contribute two hundred thousand dollars (\$200,000) per Board seat. Any Member that does not make its respective contribution to the Construction Authority Stand Up Costs within forty-five (45) days after a Treasurer and depository of funds has been selected by the Board or within forty-five (45) days of joining the Construction Authority, whichever is later, shall be deemed to have withdrawn as a Member and ceased to be a Party to this Agreement.

chapter 1, article 4 (commencing with Section 825) and title 1, division 3.6, part 7 (commencing with section 995). The indemnification and hold harmless provisions of this section 13.2 shall apply in lieu of the right of contribution provisions at Government Code Sections 895-895.8.

ARTICLE XIV: WITHDRAWAL OF MEMBERS

14.1 Termination of Membership. The Board of Directors may terminate the membership of any Member upon a finding that the Member (1) does not possess powers common to the other Members, or (2) does not agree to bear its share of the Conveyance Project's costs.

14.2 Unilateral Withdrawal. Upon sixty (60) days' prior written notice, a Member may unilaterally withdraw from this Agreement for any reason, without causing or requiring termination of this Agreement. A member that withdraws shall be held to its financial obligations to the Construction Authority incurred while a member. Unless the notice is retracted, the withdrawal shall be effective as of the date the Member provided written notice or after written confirmation from the Construction Authority that the Member's outstanding obligations have been resolved.

14.3 Termination and Distribution.

14.4.1 This Agreement shall continue until terminated. However, it may not be terminated until such time as (1) DWR has accepted the Conveyance Project in accordance with Joint Exercise of Powers Agreement between the Department of Water Resources, State of California and the Construction Authority and (2) DWR has taken over all activities related to the design and construction of the Conveyance Project, and all principal of and interest on any liabilities or other forms of indebtedness of the Construction Authority are paid in full. Thereafter, this Agreement may be terminated by the written consent of 80% of the then current Members; provided, however, that this Agreement and the Construction Authority continue to exist after termination for the purpose of disposing of all claims, distribution of assets and all other functions necessary to conclude the obligations and affairs of the Construction Authority.

14.4.2 After completion of the Construction Authority's purposes, all assets and any surplus money on deposit in any fund or account of the Construction Authority will be distributed in accordance with the Board's direction. The Board is vested with all powers of the Delta Conveyance Design and Construction Joint Powers Authority.

ARTICLE XV: BYLAWS

At, or as soon as practicable after, the first meeting of the Board of Directors, the Board shall draft and approve Bylaws of the Construction Authority to govern the day-to-day operations of the Construction Authority.

ARTICLE XVI: MISCELLANEOUS PROVISIONS

16.1 Non-Waiver of Sovereign Authority. Nothing herein shall constitute a waiver or relinquishment of sovereign authority of any Member with respect to any decision related hereto,

16.12 Limitations on Liability. Section 13.2 of this Agreement defines the scope of the Delta Conveyance Design and Construction Joint Powers Authority's duty to defend, indemnify and hold harmless any Director, officer, agent or employee. The Delta Conveyance Design and Construction Joint Powers Authority may purchase such insurance as the Board may deem appropriate for this purpose. A Member may separately contract for or assume responsibility for specific debts, liabilities, or obligations of the Construction Authority. Notwithstanding any other provision of this Agreement, no fee, assessment or charge may be levied against a current Member without express consent of the Member.

16.13 Official Bonds. The Executive Director and the Auditor are designated as officers required having and filing official bonds pursuant to Government Code section 6505.1 in amounts to be fixed by the Board.

16.14 Closed Session. Closed sessions of the Board shall be confidential. However, confidential information from closed sessions may be disclosed to Members as permitted by Government Code section 54956.96. The Board may include provisions in its bylaws to implement this section.

IN WITNESS WHEREOF, the Members hereto have executed this Agreement by authorized officials thereof on the dates indicated below, which Agreement may be executed in counterparts.

Dated: _____

By: _____

Attest:

Approved as to form:

EXHIBIT A

List of Member Agencies

[To Be Developed]

EXHIBIT B

Rotation of Officers

Year	Construction JPA President	Construction JPA Vice-President	Environment Committee Chair	Environment Committee Vice-Chair
Year 1-2	Santa Clara Valley Water District (SCVWD)	Metropolitan Water District of Southern California (MWD)	Kern County Water Agency (KCWA)	State Water Contractor at large (SWC)
Year 3-4	MWD	KCWA	SWC	SCVWD
Year 5-6	KCWA	SWC	SCVWD	MWD
Year 7-8	SWC	SCVWD	MWD	KCWA
Year 9-10	SCVWD	MWD	KCWA	SWC
Year 11-12	MWD	KCWA	SWC	SCVWD
Year 13-14	KCWA	SWC	SCVWD	MWD
Year 15-16	SWC	SCVWD	MWD	KCWA

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**State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES**

**AGREEMENT FOR
CONTRIBUTION OF MONEY TO
THE DEPARTMENT OF WATER RESOURCES
BY
CERTAIN STATE WATER CONTRACTORS**

FOR PRECONSTRUCTION PLANNING COSTS OF THE CALIFORNIA WATERFIX

(SWPAO # _____)

THIS AGREEMENT is made, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources (“Department” or “DWR”), and [*Names of participating SWP contractors*] (each a “Contractor(s)”), each herein referred to individually as a “Party” and collectively as the “Parties”.

Recitals

- A. **WHEREAS**, DWR and each Contractor listed on the signature pages hereto have entered into and subsequently amended a long-term water supply contract, each herein referred to as a “Water Supply Contract,” providing that DWR will supply certain quantities of water to the Contractor, providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payments; and
- B. **WHEREAS**, the Bay Delta Conservation Plan (“BDCP”) process was initiated in 2005-2006 and the Delta Habitat Conservation and Conveyance Program (“DHCCP”) was initiated in 2008; and
- C. **WHEREAS**, the Bay Delta Conservation Plan (“BDCP”) and (“DHCCP”) resulted in development of a proposed project known as the California Waterfix (“WaterFix”); and
- D. **WHEREAS**, DWR and certain undersigned Contractors have executed an agreement [*insert actual name of agreement*] (“Joint Exercise of Powers Agreement”) dated [*month and day*], 2019, which provides for the design and construction of the WaterFix by [*Name of Contractor JPA*] under the supervision of DWR; and

- E. **WHEREAS**, DWR has developed a budget, attached hereto as Exhibit A, for certain preconstruction planning activities identified on Exhibit A; and
- F. **WHEREAS**, each undersigned Contractor desires to, and is authorized to, contribute a share not to exceed the total amount set forth on Exhibit A, in the amount specified for each contractor on Exhibit B hereto; and
- G. **WHEREAS**, Exhibit C sets forth additional contributions from the Department and the Contractors pursuant to other arrangements, which arrangements are not subject to this Agreement but are intended provide the balance of funding required, together with the contributions made by the parties set forth on Exhibit B, to fully fund the budget set forth on Exhibit A; and
- H. **WHEREAS**, DWR is authorized to (i) accept the contribution of funds from each undersigned Contractor pursuant to Water Code section 11135 and (ii) to expend such contributed funds in accordance with the terms of this Agreement pursuant to Water Code section 11141.

AGREEMENT

NOW, THEREFORE, it is mutually agreed by the Parties as follows:

1. When used in this Agreement, the definitions in the Water Supply Contract (as defined herein) shall apply. In addition, the following definitions shall apply:
 - a. **“Calendar Year”** means the period January 1 through December 31.
 - b. **“Contractor”** means a State Agency as defined in Water Code section 11102 that is a party to a Water Supply Contract with DWR.
 - c. **“Department”** or **“DWR”** means the California Department of Water Resources.
 - d. **“Pay-Go Charge”** means the charge to each Contractor pursuant to this Agreement to recover the Contractor’s share as shown on Exhibit B of the total budget shown on Exhibit A.
 - e. **“Party”** or **“Parties”** means the DWR, an undersigned Contractor, or all signatories to this Agreement.
 - f. **“SWP”** means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities authorized by the Central Valley Project Act at section 11100 *et. seq.*
 - g. **“Water Supply Contract”** means the long-term water supply contract, as amended and as may be amended in the future, between a Contractor and DWR.

2. Purposes of Agreement. The purposes of this Agreement are to establish (i) the terms and conditions under which the undersigned Contractors will contribute money to DWR and (ii) the purposes for which DWR will expend the money so contributed.
3. Budget. Exhibit A to this Agreement is a budget (“Budget”) herein incorporated by this reference, for certain preconstruction planning activities related to the WaterFix.
4. Allocation of Contributions. Each Contractor agrees to contribute its share of the total amount set forth on Exhibit A as shown on Exhibit B to DWR at the times and in the manner set forth herein.
5. Contribution Procedure. The Contractors’ contributions shall be made in equal monthly installments over a period of 12 months beginning January 1, 2019. The initial amount of each Contractor’s monthly installment is equal to the Contractor’s total share divided by 12. If Exhibit B is amended by the Parties hereto, the amount of each Contractor’s installment shall be adjusted such that any resulting change in a Contractor’s total amount to be contributed is distributed evenly across the then remaining monthly installments, unless a different treatment is requested in writing by a Contractor and agreed to in writing by DWR. The amount(s) computed pursuant to this section 5 will be included in the Contractor’s Annual Statement of Charges under the Transportation Minimum Component section of the statement, and shall be collected in equal monthly payments as described in the Contractors’ Water Supply Contract. The payments described in this section 5 may terminate prior to the end of 12 months pursuant to the terms of section 11 hereof.
6. Amendment of Exhibits. Exhibit A may be amended by the Department at any time. If DWR amends Exhibit A it will provide notice to each Party to this Agreement as soon as practicable after its adoption by the Department. Exhibit B may only be amended, and either the amount or terms of a Contractor’s contribution be changed as a result thereof, by the written agreement of DWR and the Contractor(s) so effected.
7. Planning and Execution. DWR agrees to expend the funds contributed pursuant to this Agreement for the payment of invoices received by DWR from [JPA] in accordance with the [JEPA] and Exhibit A. Notwithstanding anything to the contrary in this Agreement or the [JEPA], DWR’s financial liability for the payment of [JPA] invoices issued to DWR shall be limited to the amount of money actually contributed to DWR pursuant to this Agreement and the arrangements described on Exhibit C hereto.
8. Reporting. DWR, through its SWPAO, shall annually prepare a report summarizing the contributions and expenditures made pursuant to this Agreement. The first such report shall be completed not later than January 31, 2020.
9. Unspent Funds. Upon termination of this Agreement, it is the intent of the Parties that any remaining unspent funds after payment of all JPA invoices submitted for work within the scope of Exhibit A, shall be returned to the contributing Contractors in proportion to

each Contractor's contribution percentage calculated based upon Exhibit B. Notwithstanding the foregoing, each Contractor recognizes that funds contributed under this Agreement may not be returned, credited or reimbursed for reasons including but not limited to, a determination by DWR in its sole discretion that the return, credit or reimbursement is inconsistent with applicable law or applicable contractual obligations of DWR, or the inability of the Parties to negotiate and execute such further agreements as may be necessary to accomplish such return, credit or reimbursement on terms acceptable to DWR.

10. Status of Project and Funds. Each Contractor recognizes that WaterFix may not proceed to construction. If WaterFix does not proceed to construction, no reimbursements of money contributed to DWR pursuant to this Agreement will occur, except for unspent funds as provided in section 9 of this Agreement. Each undersigned Contractor waives any claims it may have of any nature whatsoever relating to or arising from payment or nonpayment of [JPA] invoices by DWR in accordance with this Agreement. Nothing in this Agreement imposes any duty or obligation either expressly or by implication on DWR other than the duty to pay [JPA] invoices submitted to DWR during the term of this Agreement in accordance with the terms of this Agreement, the [JEPA] and for the activities described on Exhibit A hereto if, as and when money has been contributed to DWR under this Agreement and is available for the payment thereof. If WaterFix is not constructed the Contractors will not be responsible for any monies expended by DWR as set forth in Exhibit C.
11. Effective Date and Term. This Agreement shall become effective on the date the last Party hereto signs the Agreement as set forth on the signature pages hereto ("Effective Date"), and shall continue in effect until December 31, 2019 or, as to any Contractor, upon receipt by the Department of the Contractor's full contribution amount set forth on Exhibit B, whichever is later. The Parties' obligation to make monthly payments under this Agreement may terminate before all 12 monthly installment payments have been made in the event that either (i) the Department or a joint powers authority consisting of at least two Contractors (a "Finance JPA") issues and sells revenue bonds for the purpose of funding CA WaterFix and (ii) the proceeds of such sale have been received by the Department or an agreement is in place between the Department and such joint powers authority to provide the proceeds to the Department and (iii) the Department, the Parties hereto and such joint powers authority agree in writing that one purpose of such bond issuance and sale is to supersede the contributions provided for by this Agreement.
12. Reimbursement of Contributed Funds. It is the intent of the Parties hereto that the funds contributed pursuant to this Agreement be reimbursed or credited to each Party according to the relative amount each such Party contributed pursuant to this Agreement, upon the issuance and sale of revenue bonds by either the Department or Finance JPA, whichever occurs earlier, for the purpose of, among other things, funding CA WaterFix. The Department shall be under no obligation to issue and sell bonds for the purpose(s) described in the foregoing sentence or to undertake any reimbursement or credit as so described, unless a determination is first made by DWR in its sole discretion that such issuance and sale of revenue bonds, such reimbursement, or such credit as applicable is

consistent with applicable law, applicable judicial rulings, and applicable contractual obligations of DWR, and the Parties have negotiated and executed such further agreements as may be necessary to accomplish such reimbursement, credit or reimbursement on terms acceptable to DWR.

13. Invoices, Notices or Other Communications. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i) served personally on the Party to whom notice is to be given; (ii) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

Copy to

Deputy Director, Delta Conveyance Office
Department of Water Resources
[street address]
Sacramento, California 94236-0001

Contractors:

[Insert contacts list]

14. No Delegation of Authority. Nothing in this Agreement constitutes a delegation by any Party of its existing authority to make any decision it is mandated to make. Nothing in this Agreement shall limit DWR's final decision-making authority at the time of consideration of WaterFix for approval. All provisions of this Agreement are intended and will be interpreted to be consistent with all applicable provisions of State and Federal law. The undersigned recognize that the signatories are public agencies and have specific statutory responsibilities, and that actions of these public agencies must be consistent with applicable procedural and substantive requirements of State and Federal law. Nothing in this Agreement is intended to, nor will have the effect of, constraining or limiting any public entity in carrying out its statutory responsibilities or requiring an agency to take any action inconsistent with applicable law. Nothing in this Agreement constitutes an admission by any party as to the proper interpretation of any provision of law, nor will it have the effect of, waiving or limiting any public entity's rights and remedies under

applicable law. Except as expressly set forth above, execution of this Agreement does not constitute a waiver by any signatory of any rights or remedy it may have, nor does execution constitute pre-approval of any project or preferred project alternative, or waive or otherwise abridge responsible trustee duties required, or discretion authorized, under State and federal law.

15. Amendment. Except as otherwise set forth above, this Agreement may only be amended or modified by a subsequent written agreement approved and executed by all of the Parties. Amendment of Exhibit A, Exhibit B, and Exhibit C is provided for in section 6 of this Agreement.
16. Applicable Law. This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.
17. Integration. This Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of the terms of this Agreement among the Parties concerning the subject matter, and supersedes all prior negotiations, representations or agreement, either oral or written, that may be related to the subject matter of this Agreement.
18. Counterparts. This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

Exhibits attached and incorporated herein:

Exhibit A	Budget
Exhibit B	Share of Funding
Exhibit C	Other funding

IN WITNESS WHEREOF, the Parties hereto, by their authorized representatives, have executed this Agreement on the date(s) set forth below.

Approved as to Legal Form
and Sufficiency

Spencer Kenner
Chief Counsel

Date

Approved as to Legal Form
and Sufficiency

Name

Title

Date

State of California
Department of Water Resources

Karla Nemeth
Director

Date

[Contractor]

Name

Title

Date

Exhibit A
Budget
[For July 2018 – July 2019]

California WaterFix Pre-Construction Funding Agreement – Exhibit B (DRAFT)

	State Water Project Contractors	Pre-Construction Funding for CA WaterFix
1	City of Yuba City	\$ -
2	Solano County Water Agency	\$ -
3	Napa County Flood Control and Water Conservation District	\$ -
4	Alameda County Flood Control and Water Conservation District Zone 7	\$ 250,000
5	Alameda County Water District	\$ 459,050
6	Santa Clara Valley Water District	\$ 1,092,975
7	Tulare Lake Basin Water Storage District	\$ -
8	County of Kings	\$ -
9	Dudley Ridge Water District	\$ -
10	Empire West Side Irrigation District	\$ -
11	Oak Flat Water District	\$ -
12	Kern County Water Agency	\$ 6,229,514
13	San Luis Obispo County Flood Control and Water Conservation District	\$ 273,244
14	Santa Barbara County Flood Control and Water Conservation District (Central Coast Water Authority)	\$ 497,151
15	Metropolitan Water District of Southern California	\$ -
16	Ventura County Watershed Protection District	\$ 218,595
17	Santa Clarita Valley Water Agency	\$ 1,040,513
18	Antelope Valley-East Kern Water Agency	\$ 1,583,110
19	Coachella Valley Water District	\$ 1,512,132
20	Crestline-Lake Arrowhead Water Agency	\$ 63,392
21	Desert Water Agency	\$ 609,334
22	Mojave Water Agency	\$ 981,492
23	Palmdale Water District	\$ 232,804
24	San Bernardino Valley Municipal Water District	\$ -
25	San Geronio Pass Water Agency	\$ 189,085
26	Littlerock Creek Irrigation District	\$ -
27	San Gabriel Valley Municipal Water District	\$ -
28	County of Butte	\$ -
29	Plumas County Flood Control and Water Conservation District	\$ -
Total Supplemental Funding by State Water Project Contractors pursuant to Agreement		\$ 15,232,391

**California WaterFix Pre-Construction Funding, Other Commitments – Exhibit C
(DRAFT)**

	Funding from sources other than SWP contractors or from SWP contractors pursuant to other agreements	Pre-Construction Funding for CA WaterFix
1	City of Yuba City	
2	Solano County Water Agency	
3	Napa County Flood Control and Water Conservation District	
4	Alameda County Flood Control and Water Conservation District Zone 7	
5	Alameda County Water District	
6	Santa Clara Valley Water District	
7	Tulare Lake Basin Water Storage District	
8	County of Kings	
9	Dudley Ridge Water District	
10	Empire West Side Irrigation District	
11	Oak Flat Water District	
12	Kern County Water Agency	
13	San Luis Obispo County Flood Control and Water Conservation District	
14	Santa Barbara County Flood Control and Water Conservation District (Central Coast Water Authority)	
15	Metropolitan Water District of Southern California	\$ 86,117,793
16	Ventura County Watershed Protection District	
17	Santa Clarita Valley Water Agency	
18	Antelope Valley-East Kern Water Agency	
19	Coachella Valley Water District	
20	Crestline-Lake Arrowhead Water Agency	
21	Desert Water Agency	
22	Mojave Water Agency	
23	Palmdale Water District	
24	San Bernardino Valley Municipal Water District	\$ 10,000,000
25	San Geronio Pass Water Agency	
26	Littlerock Creek Irrigation District	
27	San Gabriel Valley Municipal Water District	
28	County of Butte	
29	Plumas County Flood Control and Water Conservation District	
30	Department of Water Resources, State Water Resources Development System	\$ 22,339,593
	Total Supplemental Funding by Other Sources	\$ 118,457,386

MEMORANDUM

TO: Board of Directors

FROM: General Manager

RE: Adoption of San Gorgonio Pass Integrated Regional Water Management Plan

Summary:

At the April Engineering workshop, staff reviewed the draft San Gorgonio Pass Integrated Regional Water Management Plan with the Board. The purpose of this proposed Board action is to ask the Board to adopt the final plan so that it may formally be submitted to the Department of Water Resources.

Background:

In 2016, the Agency partnered with the City of Banning, Cabazon Water District, the Banning Heights Mutual Water Company, High Valleys Water District, and the Riverside County Flood Control and Water Conservation District to create a Regional Water Management Group (RWMG) to submit an application to the Department of Water Resources to create a new integrated planning region, the San Gorgonio Pass region. The Department conditionally accepted the new region in January 2017.

In the meantime, the RWMG applied for an Integrated Regional Water Management Planning Grant from the Department of Water Resources. The RWMP, led by the City of Banning, was successful in obtaining a \$1 million planning grant to develop an integrated plan for the new region.

The RWMG contracted with Woodard & Curran to write the plan, using input from the individual members of the RWMG.

Detailed Report:

A draft integrated plan was published a few months ago. Staff reviewed it with the Board in detail at the April Engineering workshop. The plan includes a detailed description of the region, including

population and water demand projections, a set of goals and objectives, a series of resource management strategies to fulfill the goals and objectives, an outreach plan, and three technical appendices. The technical appendices include a recycled water study, a water supply reliability study, and an integrated groundwater/precipitation model that can be used as a tool to help predict future groundwater levels.

The plan also includes an implementation methodology. It sets up a process by which any member of the RWMG may submit projects for inclusion in the plan. If a project is included in the plan, that is, if the project implementation committee provides it with a sufficient score on basic criteria, the project becomes eligible for an implementation grant, which could fund a large portion of the project in the future. Implementation grant funds will be available in the future from a variety of water bond issues, most notably (at this time) Proposition 1.

Some of the more notable goals of the plan are water supply reliability, drought resiliency, no reduction in water quality, improve the resiliency of local water distribution systems, and develop tools to better understand local hydrology. These were discussed with the Board in detail at the April workshop.

The RWMG also created a Stakeholder Advisory Committee to provide input to the plan during plan development, and to provide continuing input as the plan is implemented and, at some point in the future, updated.

A final step before the plan becomes official is for the members of the RWMG to formally adopt it individually. Once this is done, it will be submitted to the Department of Water Resources for final approval. Once this is given, implementation grant funds will be available for projects that are submitted, reviewed by the implementation committee, and scored high enough based on the scoring criteria to be judged projects worthy of funding.

Fiscal Impact:

There is no fiscal impact to adopting the plan. Should the Agency at some point obtain implementation funding for a project, such as the proposed Banning/Cabazon Pipeline, the Agency at that time may

have to provide matching funds for construction of the project. However, there is no fiscal impact to adopting the plan at this time.

Recommendation:

Staff recommends that the Board adopt Resolution 2018-03, which would formally adopt the San Geronio Pass Integrated Regional Water Management Plan.

RESOLUTION 2018-03
A RESOLUTION OF THE SAN GORGONIO PASS WATER AGENCY SUPPORTING
AND ADOPTING THE SAN GORGONIO INTEGRATED REGIONAL WATER
MANAGEMENT PLAN

WHEREAS, the City of Banning, Banning Heights Mutual Water Company, Cabazon Water District, High Valleys Water District, Riverside County Flood Control and Water Conservation District, and the San Gorgonio Pass Water Agency have partnered by signing a Memorandum of Understanding (MOU) forming a Regional Water Management Group (RWMG); and

WHEREAS, working with the stakeholders and partners of the San Gorgonio Region, the RWMG has prepared the San Gorgonio Integrated Regional Water Management Plan (Plan); and

WHEREAS, adoption of the Plan in no way commits a participating agency to a financial or any other regulatory obligation and does not legally bind the agency to any future activities or specific projects; and

WHEREAS, the Plan represents all entities significant to water management planning in the region in addressing water resources as well as other interested stakeholders and has provided the framework and procedures used to govern, collaborate, and plan activities, as well as pursue funding opportunities within the Plan program; and

WHEREAS, the agencies, partners, and stakeholders are committed to integrated planning efforts in an open, accessible process and have acted in good faith in planning and implementing the Plan; and

WHEREAS, the Plan will help secure significant funding for resources in the San Gorgonio Region through the California Department of Water Resources (DWR), the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1), and other funding sources through the Plan process; NOW, THEREFORE,

BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED BY THE SAN GORGONIO PASS WATER AGENCY BOARD OF DIRECTORS on MAY 21, 2018 hereby adopts the San Gorgonio Integrated Regional Water Management Plan and supports the submittal of the Plan to DWR for the benefit of the residents of the entire San Gorgonio Region.

Resolution No. 2018-03 was adopted by the following roll call vote:

Ayes:
Noes:
Abstain:
Absent:

I hereby certify that the foregoing is a true and correct copy of Resolution No. 2018-03 adopted by the Board of Directors of San Gorgonio Pass Water Agency at its meeting on May 21, 2018.

Jeffrey W. Davis, Secretary to the Board

MEMORANDUM

TO: Board of Directors

FROM: General Manager

RE: San Gorgonio Pass SGMA Authorizations

DATE: May 21, 2018

Summary:

As the Agency and other local public agencies move forward on implementation of the Sustainable Groundwater Management Act (SGMA), some decisions will have to be made by the elected bodies of the local Groundwater Sustainability Agencies. The purpose of this proposed Board action is to get direction from the Board on some issues relating to the San Gorgonio Pass sub-basin, most notably the appointment of the Agency to file the initial notification with DWR of intent to begin the groundwater sustainability plan (GSP), and the decision to have all three GSA's in the San Gorgonio Pass sub-basin work together to produce just one GSP.

Background:

The Agency has been involved in implementation of SGMA since 2015. It belongs to four separate Groundwater Sustainability Agencies in three different groundwater basins. Recently these GSA's have begun their initial planning for GSP's. Since the GSA's are not Joint Power Authorities (JPA's) and instead were formed through MOA's (Memorandums of Agreement), major decisions made by the GSA's must be approved by the elected bodies of each of the GSA members. As an alternative, elected bodies may choose to authorize their General Managers to make major decisions, thus reducing the number of action items that would come to these elected bodies.

For the San Gorgonio Pass sub-basin, two decisions must be made in the near future. The first is to direct the three separate GSA's to develop a single GSP, working together as needed. All parties have agreed to this at the staff level; confirmation by the elected bodies is

in process. The second is to designate the Agency as the entity who will file the initial notification of intent to produce a GSP with the Department of Water Resources. Again, at the staff level there is agreement on this point. All elected bodies must officially confirm this before these actions can be formally taken.

Since SGMA is new, it is unclear how many decisions will need to be brought to the Board in the future. Major decisions that will commit funds will obviously need to be approved by elected bodies. This could include hiring consultants to produce the GSP, along with any cost sharing agreements. The GSA members will have to decide as the SGMA process is implemented how they will deal with other decisions that may not be as critical.

Detailed Report:

The Agency is a member of other GSA's as well, and it is likely that similar actions will be brought to the Board for approval in the future as these GSA's move forward. This proposed Board action is strictly for the San Gorgonio Pass sub-basin, and only deals with the issues mentioned above.

It is anticipated that, before the end of the year, staff will bring to the Board other GSA issues, including cost sharing agreements, by-laws, and contracting with consultants. As an alternative, the Board could choose to authorize staff to deal with some of these issues so that each one would not have to be brought to the Board for action.

Fiscal Impact:

There is no fiscal impact to the actions recommended in this staff report. It is anticipated that most, if not all, of the costs associated with the San Gorgonio Pass GSP will be covered through the SGMA grant that the Agency has won.

Recommendation:

Staff recommends that the Board:

- Authorize the General Manager, on behalf of the San Gorgonio Pass GSA, to file the initial notification of intent to produce a GSP with the Department of Water Resources. The entity who files this notification will be considered by the Department to be

the sole point of contact for this basin for the duration of the GSP process.

- Direct staff to work with other GSA's in the San Gorgonio Pass sub-basin to work as a group to produce a single Groundwater Sustainability Plan (GSP), as opposed to multiple GSP's for the basin.