

**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue, Beaumont, CA**  
**Board of Directors Meeting**  
**Agenda**  
**October 19, 2020 at 1:30 p.m.**

IN AN EFFORT TO PREVENT THE SPREAD OF COVID-19 (CORONAVIRUS), AND IN ACCORDANCE WITH THE GOVERNOR'S EXECUTIVE ORDER N-29-20, **THERE WILL BE NO PUBLIC LOCATION FOR ATTENDING THIS BOARD MEETING IN PERSON.** MEMBERS OF THE PUBLIC MAY LISTEN AND PROVIDE PUBLIC COMMENT TELEPHONICALLY BY CALLING THE FOLLOWING NUMBER: 669-900-6833, Meeting ID: 820 7310 9940 OR JOIN BY ZOOM: <https://us02web.zoom.us/j/82073109940>

**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. 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, October 5, 2020\*, p. 2
- B. Approval of the Minutes of the Engineering Workshop, October 12, 2020\*, p. 7
- C. Approval of the revised San Gorgonio Pass Water Agency Vehicle Policy\*, p. 9

**5. Reports (Discussion and Possible Action)**

- A. General Manager's Report
- B. Directors' Reports
- C. Committee Reports

**6. New Business (Discussion and Possible Action)**

- A. Consideration to Approve Resolution No. 2020-07 Approving Amendment to the Long-term Water Supply Contract with the State of California to Provide Water Management Flexibility and Making Findings Pursuant to the California Environmental Quality Act\*, p. 12

**7. Topics for Future Agendas**

**8. Announcements**

- A. Finance & Budget Workshop, October 26, 2020 at 1:30 pm–Teleconference/Zoom
- B. Regular Board Meeting, November 7, 2020 at 1:30 pm–Teleconference/Zoom

**11. 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](http://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.

**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue, Beaumont, California 92223**  
**Minutes of the**  
**Board of Directors Meeting**  
**October 5, 2020**

IN AN EFFORT TO PREVENT THE SPREAD OF COVID-19 (CORONAVIRUS), AND IN ACCORDANCE WITH THE GOVERNOR'S EXECUTIVE ORDER N-29-20, **THERE WILL BE NO PUBLIC LOCATION FOR ATTENDING THIS BOARD MEETING IN PERSON.** MEMBERS OF THE PUBLIC MAY LISTEN AND PROVIDE PUBLIC COMMENT TELEPHONICALLY BY CALLING THE FOLLOWING NUMBER: 669-900-6833 OR JOIN BY ZOOM: <https://us02web.zoom.us/j/81773353899>  
MEETING ID: 817 7335 3899

**Directors Present:** Ron Duncan, President  
All Board members attended by video conferencing/teleconferencing  
Lenny Stephenson, Vice President  
Michael Thompson, Treasurer  
Blair Ball, Director (arrived at 1:35 pm)  
David Castaldo, Director  
David Fenn, Director  
Steve Lehtonen, Director

**Staff Present:** Lance Eckhart, General Manager  
All Staff members attended by video conferencing/teleconferencing  
Jeff Ferre, General Counsel  
Thomas Todd, Finance Manger  
Cheryle Stiff, Executive Assistant

- 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 Duncan at 1:30 p.m., October 5, 2020 by video/teleconference. Director Stephenson led the Pledge of Allegiance to the flag. Director Fenn gave the invocation. President Duncan requested a roll call.

<u><b>Roll Call:</b></u>	<b>Present</b>	<b>Absent</b>
Director Castaldo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Ball	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Director Lehtonen	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Stephenson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Fenn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Thompson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
President Duncan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

A quorum was present.

- Adoption and Adjustment of Agenda:** *President Duncan asked if there were any adjustments to the agenda.* General Manager Eckhart responded that there are none..

3. **Public Comment:** *President Duncan asked for public comments.* Joyce McIntyre inquired about a line item that was noted on the September 28, 2020 Minutes of the Finance and Budget Workshop. General Counsel Ferre responded that the General Manager will follow-up with Ms. McIntyre, as the question is not something that was related to the agenda. There were no other members of the public that spoke at this time.

4. **Consent Calendar:**

- A. Approval of the Minutes of the Regular Board Meeting, September 21, 2020
- B. Approval of the Minutes of the Finance and Budget Workshop, September 28, 2020
- C. Approval of the Finance and Budget Report, September 28, 2020

*President Duncan asked for a motion on the Consent Calendar.* Director Stephenson made a motion, seconded by Director Lehtonen, to adopt the consent calendar as presented. President Duncan requested a roll call vote.

<b><u>Roll Call:</u></b>	<b>Aye</b>	<b>Noes</b>	<b>Absent</b>	<b>Abstain</b>
Director Ball	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Castaldo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Thompson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Fenn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Lehtonen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Stephenson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Duncan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion passed 7-0.

5. **Reports:**

**A. General Manager’s Report:** General Manager Eckhart reported on the following:

- 1) **2020 Regional Urban Water Management Plan Kick-off.** General Manager Eckhart noted that the UWMP kick-off took place last Thursday and that it was well attended. The UWMP proves to the state that we have enough water supplies in the region for the next twenty years and beyond; the UWMP is revised every five years. The intent is to ensure that we are all on the same path as a group. This process will go into the first quarter of 2021.
- 2) **El Nino vs. El Nina** – General Manager Eckhart provided a short video on El Nino and El Nina. He then explained what the climatic conditions mean for the Agency. He noted that we may have another low allocation year for Table A water. Our demands this year are about 10k acre-feet, with about 2k acre-feet for banking and storage.

**B. General Counsel Reports:** A written report was provided in the agenda packet. General Counsel Ferre briefly reviewed with the Board AB 992 – new Brown Act Rules regarding Social Media, explaining to the Board what is permitted and not permitted on social media accounts. He stated that the Board members are to reframe from responding to any social media account in order to avoid a serial meeting. This new law expires in five years then reverts back to the previous law.

**C. Directors Reports:** Director Fenn reported on YVWD’s Board meeting that was held on September 22, 2020. Director Ball reported on BCVWD’s Engineering meeting that was held on September 24, 2020. President Duncan stated that the counties of Riverside, Orange and San Diego will be moving forward with reopening of business, this in opposition of Governor Newsom’s restrictions. He reported that Banning Chamber of Commerce, in conjunction a federal assistance program, distributed 850 pounds of food to the needy this past Sunday. He also reported on Beaumont and Banning Unified School Districts boundary dispute.

**D. Committee Reports: None**

**6. New Business:**

**A. Discussion and Possible Action on Agreement with SBVMWD and YVWD to Establish Method for Calculating SWP Deliveries to Calimesa:**

A staff report, a copy of the draft Agreement to Facilitate Water Deliveries by SBVMWD for the San Geronio Pass Water Agency in the Calimesa Area, and a copy of DWR SWPAO #16030 Agreement were included in the Agenda Packet. General Manager Eckhart provided a short PowerPoint that explained the purpose of the agreement and the method calculations of SWP deliveries to Calimesa. General Manager Eckhart concluded his presentation at which time President Duncan requested public comment; there being none he opened this item for Board discussion. After discussion, Director Fenn made a motion, seconded by Director Castaldo, to approve the companion agreement to SWAPO #16030. Further discussion ensued between the Board, the public, and staff. After discussion, Director Stephenson made a substitute motion, seconded by Director Ball, to table this item to the next Board meeting allowing staff additional time to address the cost of a single meter and how it would work. Director Fenn called to question on the substitute motion, seconded by Director Thompson. President Duncan requested a roll call vote on the call to question on the substitute motion.

<b><u>Roll Call:</u></b>	<b>Aye</b>	<b>Noes</b>	<b>Absent</b>	<b>Abstain</b>
Director Castaldo	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Ball	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Lehtonen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Stephenson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Fenn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Thompson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Duncan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion failed 5-2, with Directors Castaldo and Ball opposed.

General Counsel Ferre stated a vote is to now be taken on the substitute motion. President Duncan requested a roll call vote.

<b><u>Roll Call:</u></b>	<b>Aye</b>	<b>Noes</b>	<b>Absent</b>	<b>Abstain</b>
Director Castaldo	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Ball	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Lehtonen	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Stephenson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Fenn	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Thompson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Duncan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Substitute Motion failed 2-5, with Directors Castaldo, Lehtonen, Fenn Thompson and President Duncan opposed.

President Duncan requested a roll call vote on the original motion to approve the agreement as recommended.

<b><u>Roll Call:</u></b>	<b>Aye</b>	<b>Noes</b>	<b>Absent</b>	<b>Abstain</b>
Director Castaldo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Ball	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Lehtonen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Stephenson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Fenn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Thompson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Duncan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion passed 5-2, with Directors Ball and Stephenson opposed.

**B. Discussion and Possible Action to Amend General Manager’s Contract:** A staff report, a draft copy of the First Amendment to the General Manager Employment Agreement, and a draft copy of the Vehicle Use Policy, October 2020 were included in the agenda packet. General Manager Eckhart stated that counsel had drafted the updated Vehicle Use Policy and unless there was comment, the updated Vehicle Use Policy would be presented to the Board as a consent item at an upcoming Board meeting. The recommendation today is to approve the use of the company vehicle by the General Manager and to rescind the current vehicle allowance that is in the General Manager’s contract. Director Thompson made a motion, seconded by President Duncan, to approve the First Amendment to the General Manager Employment Agreement, as recommended by staff. President Duncan requested public comment. There being none, he opened this item for Board discussion. There was no Board comment. President Duncan requested a roll call vote on the motion.

<b><u>Roll Call:</u></b>	<b>Aye</b>	<b>Noes</b>	<b>Absent</b>	<b>Abstain</b>
Director Castaldo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Ball	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Lehtonen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Stephenson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Fenn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director Thompson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Duncan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion passed 7-0.

**7. Topics for Future Agendas:** None,

**8. Announcements:**

- A. Water Conservation and Education Committee, October 8, 2020 at 1:30 p.m.
- B. Engineering Workshop, October 12, 2020 at 1:30 p.m.
- C. Regular Board Meeting, October 19, 2020 at 1:30 p.m.

**9. Adjournment**

**Time: 3:05 pm**

**Draft - Subject to Board Approval**

Lance Eckhart, Secretary of the Board

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**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue, Beaumont, CA 92223**  
**Minutes of the**  
**Board of Directors Engineering Workshop**  
**October 12, 2020**

IN AN EFFORT TO PREVENT THE SPREAD OF COVID-19 (CORONAVIRUS), AND IN ACCORDANCE WITH THE GOVERNOR'S EXECUTIVE ORDER N-29-20, **THERE WILL BE NO PUBLIC LOCATION FOR ATTENDING THIS BOARD MEETING IN PERSON.** MEMBERS OF THE PUBLIC MAY LISTEN AND PROVIDE PUBLIC COMMENT TELEPHONICALLY BY CALLING THE FOLLOWING NUMBER: 669-900-6833, ID 834 9484 9626 OR JOIN BY ZOOM: <https://us02web.zoom.us/j/83494849626>

**Directors Present:** Ron Duncan, President (left at 2:30 pm)  
All Board members Leonard Stephenson, Vice President  
Attended by video Blair Ball, Director  
conferencing/ David Castaldo, Director  
teleconferencing David Fenn, Director  
Steve Lehtonen, Director  
Mike Thompson, Director (joined at 1:35 pm)

**Staff Present:** Lance Eckhart, General Manager  
All staff members Jeff Ferre, General Counsel  
Attended by video Tom Todd, Jr., Finance Manager  
conferencing/  
Teleconferencing

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**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 Vice President Stephenson at 1:30 p.m., October 12, 2020 via videoconference. Vice President Stephenson led the Pledge of Allegiance to the flag. Vice President Stephenson requested a roll call.

<b><u>Roll Call:</u></b>	<b><i>Present</i></b>	<b><i>Absent</i></b>
Director Ball	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Castaldo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Thompson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Fenn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Lehtonen	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Director Stephenson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
President Duncan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

A quorum was present.

**2. Public Comment:** *Vice President Stephenson 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 that are not on today's agenda.* Tim Smith made a brief comment.

**3. Discussion on Amendment to the Long-Term Water Supply Contract with the State of California to Provide Water Management Flexibility:** General Manager Lance Eckhart made a presentation about this topic, highlighting the history

of the amendment, and explaining the changes that this amendment will make to the water supply contract. Dan Flory of Provost & Pritchard also commented on the history of the process and was available to answer specific contract questions. After further review and discussion, a motion was made by President Ron Duncan, seconded by Director Castaldo, to recommend that the Board approve Resolution 2020-07 to authorize the General Manager to execute the proposed amendment to the Agency's long-term water supply contract with the Department of Water Resources. The motion passed 7 in favor, no opposed by roll-call vote.

**4. Presentation of Draft Infrastructure Plan by Terry Erlewine, Provost & Pritchard:** Terry Erlewine presented the draft version of the infrastructure analysis and future plan performed by Provost & Pritchard. Discussion followed the presentation. Further work on the plan was requested by the Workshop members pertaining to capacity limitations along the State Water Project. It was also recommended that the plan be finalized after the 2020 Urban Water Management Plan analysis was completed (expected first quarter 2021).

**5. Update on Wholesale Urban Water Management Plan (UWMP):** General Manager Eckhart gave a verbal report about the progress of the UWMP. A brief discussion followed his comments.

**6. Announcements:**

- A. Regular Board Meeting, October 19, 2020 at 1:30 p.m.  
– Teleconference/Zoom
- B. Finance & Budget Workshop, October 26, 2020 at 1:30 p.m.  
– Teleconference/Zoom
- C. Regular Board Meeting, November 2, 2020 at 1:30 p.m.  
– Teleconference/Zoom

**7. Adjournment:** Vice President Stephenson adjourned the meeting at 3:06 p.m.

**Draft - subject to Board approval**

Lance Eckhart, Secretary to the Board

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San Gorgonio Pass Water Agency  
Agency Vehicle Use Policy  
October 2020

**I. Purpose**

The purpose of this policy is to govern the use of Agency-owned vehicles and to minimize the personal use of these vehicles.

**II. Authorization**

The positions currently authorized to utilize Agency vehicles on a regular basis, including commuting, are the General Manager and the Operations and Maintenance Manager. It is the finding of the Board of Directors that the vehicle assigned to the General Manager is considered part of his compensation as set forth in his employment agreement, and that the vehicle assigned to the Operations and Maintenance Manager is considered necessary in order to perform his job function. Each of these positions has an appropriate vehicle assigned to it. The vehicle assigned to the Operations and Maintenance Manager shall be a truck equipped to drive off-road. The positions of General Manager and Operations and Maintenance Manager are collectively referred to herein as "Employee."

**III. Taxes**

The Finance Manager shall ensure that the Agency complies with all tax laws regarding use of Agency vehicles.

**IV. Maintenance**

1. Employee shall be responsible for keeping the Agency-owned vehicle in proper operating condition, including replacing parts and tires, tune-ups, oil changes, etc.
2. Vehicles shall be serviced on a regular basis.
3. The vehicles shall be washed as needed.
4. When vehicles are at the homes of the authorized drivers, they shall be parked in a driveway or garage to the greatest extent possible, especially overnight.
5. If major maintenance is required that causes the vehicle to be unavailable for over 48 hours, Employee may authorize procurement of an appropriate rental vehicle at Agency expense while maintenance is being performed.
6. Employee is responsible for all tools and equipment assigned to a vehicle or equipment carried thereon.

**V. Vehicle Use**

1. Agency vehicles are intended to be used primarily for Agency business and commuting.
2. Use of Agency vehicles outside of commuting and Agency business is restricted to the following:
  - a. Driving to get a meal.
  - b. Fueling the vehicle.
  - c. Washing the vehicle.
  - d. Driving the vehicle to a maintenance shop.
  - e. Personal use only while on the way to or from work, such as to drop off or pick up a child at school, or during lunch if a personal errand must be run.
  - f. Emergency use.

3. Individuals who are not Agency employees are not to drive Agency vehicles other than in an emergency or an extraordinary medical circumstance.

## **VI. Use of Vehicles by Other Employees**

Agency employees other than Employee may drive Agency vehicles on Agency business as directed by the Agency General Manager.

## **VII. Vehicle Operation**

1. Agency vehicles shall at all times be operated in conformance with local traffic laws and in a safe and lawful manner.
2. Proof of insurance shall be kept in Agency vehicles at all times.
3. If the driver of an Agency vehicle receives a traffic ticket, the driver is responsible for paying the fine or any other punishment issued by local law enforcement. Any moving violation shall be reported to ACWA JPIA as required by ACWA JPIA rules, and to the Board of Directors.
4. Employee is required to be in possession of a valid California Driver's License of the class of vehicle being operated. The revoking or suspension of that license for any reason by the State of California or a driving record unacceptable to Agency may be sufficient cause of dismissal. Traffic citations incurred while Employee is driving an Agency vehicle, with the exception of faulty equipment, are Employee's responsibility.
5. Smoking is prohibited in Agency vehicles.
6. Transportation in the vehicle of persons other than directors, officers, employees, or authorized agents of Agency is prohibited. Notwithstanding the above, an Employee assigned an Agency vehicle for transportation to and from Employee's family home may transport family members during non-working hours when necessary to ensure the health and well-being of that family member, and as further restricted herein.
7. Agency requires strict adherence to state law concerning the use of cellular phones while driving. It is required that Employee use hands-free devices while driving. Employee is expressly prohibited from checking, sending or receiving emails or text messages while driving. These requirements apply at all times when driving an Agency-owned vehicle and at any time when driving on Agency business, even if Employee uses his/her own vehicle. Failure to adhere to these requirements is grounds for discipline, up to and including termination.

## **VIII. Out of California**

1. If an Agency vehicle is to be driven outside of California, authorization shall be obtained in advance from the Board of Directors.
2. An Agency vehicle shall not be taken out of the country without prior authorization from the Board of Directors and without supplemental insurance.

## **IX. In Case of Accident**

1. In the event an Agency vehicle is involved in an accident, the accident shall be reported to the local authorities, if required.
2. The driver shall obtain insurance information from owners of all other vehicles involved in the accident, if possible.

3. The driver is responsible for reporting the accident to the Agency General Manager, who shall submit a report of the accident to Agency's insurance carrier and any other written reports required by law.
4. If an Agency vehicle is disabled by virtue of an accident, the Agency General Manager may authorize a rental vehicle at Agency expense as a replacement while the vehicle is being repaired.

**X. Insurance**

1. The Agency Board of Directors and General Manager are responsible for ensuring that all Agency vehicles are insured as required by law.
2. Additional insurance shall be provided by the Agency as appropriate. This shall be determined by the General Manager.

**XI. Abuse of Policy, Driving Record**

1. If the Board of Directors finds that this policy is being abused in any way, or if Employee exhibits a poor driving record, the Board may either restrict use of Agency vehicles or take a vehicle away for a period of up to 30 days.
2. If an employee is found to have abused this policy a second time, or exhibits a consistently poor driving record over a period of time, the Board may restrict the use of or take a vehicle away permanently.

**XI. Change of Policy**

This policy may be changed by the Board of Directors at any regularly scheduled meeting.

Adopted by Board of Directors by vote of \_\_\_ on October 5, 2020.

# ***San Geronio Pass Water Agency***

**DATE:** October 19, 2020

**TO:** Board of Directors

**FROM:** Lance Eckhart, General Manager

**BY:** Lance Eckhart, General Manager

**SUBJECT: DISCUSSION ON AMENDMENT TO THE LONG-TERM WATER SUPPLY CONTRACT WITH THE STATE OF CALIFORNIA TO PROVIDE WATER MANAGEMENT FLEXIBILITY**

## **RECOMMENDATION**

Staff recommends approving Resolution No. 2020-07 to authorize the General Manager to execute the proposed amendment to the Agency's long term water supply contract with the Department of Water Resources regarding enhance water management tools and (2) make responsible agency findings pursuant to the California Environmental Quality Act for the Final Environmental Impact Report for the State Water Project Supply Contract Amendments for Water Management, and adopt CEQA Findings and Statement of Overriding Considerations for the Project.

## **PREVIOUS CONSIDERATION**

- Board of Directors – August 20, 2018: The Board discussed negotiations and a proposed amendment to the Agency's State Water Project Supply Contract to allow for more flexibility with regard to water transfers and exchanges.
- Engineering Workshop – October 12, 2020: The Workshop discussed the negotiated proposed amendment to the Agency's State Water Project Supply Contract to allow for more flexibility with regard to water transfers and exchanges.

## **BACKGROUND**

In the 1960s, DWR entered into contracts with 29 Public Water Agencies (PWAs) to construct, operate, and maintain facilities needed to provide a water supply. The contracts are complex legal documents with multiple provisions, primarily covering water delivery, payments, allocations of water supply, and other general contract terms. Over time, the contracts have been amended to account for changed conditions. Most recently, as highlighted by the recent droughts, there is a need to address provisions for flexibility in the water management provisions, such as transfers and exchanges, to ensure the SWP supplies are used efficiently.

The State and the PWAs participated in numerous negotiating sessions between February and June of 2018 in an effort to develop modern transfer and exchange methodologies that facilitated better use of the State's water resources. As a result, contract amendment language was developed.

The resulting change in the contract will provide for more flexibility in conducting transfers and exchanges, which are critical for the Agency to manage its water supplies moving forward. The last major changes to transfer and exchange language occurred with the Monterey Amendment in 1995. However, with climate change, drought, the Sustainable Groundwater Management Act, declining supply reliability, and increasing costs, more flexibility is needed to help deal with these issues. A summary of the amendment changes and history can be found here: [https://swc.org/wp-content/uploads/2020/09/WMT\\_Fact-Sheet\\_FINAL.pdf](https://swc.org/wp-content/uploads/2020/09/WMT_Fact-Sheet_FINAL.pdf).

## **ANALYSIS**

The Contract Amendment for Water Management will accomplish the following:

*Transfers - The proposed contract amendment generally includes the following:*

- Removes the Turnback Pool
- Allows non-permanent transfers among PWAs and provides compensation limits
- Requires that transfers not harm the SWP and other PWAs
- Requires DWR review and approval
- Allows PWAs to transfer Article 21 (excess wet year water) water in special circumstances
- Allows PWAs to transfer up to 50% of their carryover water
- Adds provisions to ensure transparency
- Provides a dispute resolution process for non-participating PWAs who feel they may be adversely impacted by a transfer.

*Exchanges - The proposed contract amendment generally includes the following:*

- Establishes exchange ratios based on Table A water allocation up to a maximum of 5:1
- Establishes the maximum compensation for an exchange
- Allows multiple year exchanges up to 10 years
- Allows the exchange of up to 50% of PWAs carryover water
- Requires that exchanges not harm the SWP and other PWAs
- Adds provisions to ensure transparency
- Provides a dispute resolution process for non-participating PWAs who feel they may be adversely impacted by a transfer.

Under the proposed amendment, PWAs may participate in multiple transfers and/or exchanges each year and may be both a buyer and seller in the same year. PWAs may also petition DWR for exceptions to the established criteria in the amendment based upon special needs or circumstances. Overall, the proposed amendment provides improved flexibility for PWAs to maximize the value of their investment in the SWP.

### Proposed Amendment Implementation Schedule

The amendment will go into effect on the last day of the month in which a total of 24 PWAs have executed the amendment. If 24, or more, PWAs have not executed the amendment by February 28, 2021, DWR can decide, in consultation with those PWAs who have executed the amendment, whether to allow the amendment to take effect.

### CEQA Determination

On February 28, 2020, DWR published the 2020 Partially Recirculated Draft EIR (DEIR) for the amendment. The Partially Recirculated DEIR was circulated for 94 days through June 1, 2020. On August 25, 2018, DWR certified the Final EIR for the Project. The Final EIR determined that the Project would have significant and unavoidable impacts to groundwater hydrology and water quality and cumulatively considerable and unavoidable impacts to groundwater supplies and subsidence. As such, DWR adopted CEQA Findings of Fact and Statement of Overriding Considerations for the Project. On August 28, 2020, DWR filed a Notice of Determination for the Project. The Final EIR and CEQA Findings of Fact and Statement of Overriding Considerations comply with CEQA. DWR's Notice of Determination, Partially Recirculated DEIR, and Final EIR can be found on the official DWR website at: <https://water.ca.gov/News/Public-Notices/2020/August/SWP-Water-Supply-Contract-EIR>. DWR's CEQA Findings and Statement of Overriding Concern is attached to this staff report.

San Geronio Pass Water Agency, as a Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the certified Final EIR for the Project. In addition, because the certified Final EIR identified significant and unavoidable impacts to the environment, the Agency must adopt CEQA Findings of Fact and Statement of Overriding Considerations which is covered by Resolution (attached).

### **FISCAL IMPACT**

None

### **ACTION**

Motion to approve Resolution No. 2020-07, to approve the contract amendment and adopt CEQA findings.

**ATTACHMENTS**

1. Resolution No. 2020-07
2. DWR CEQA Findings of Fact and Statement of Overriding Considerations for the State Water Project Water Supply Contract Amendments for Water Management
3. Amendment to Water Supply Contract between DWR and SGPWA
4. Water Management Tools Fact Sheet

## **RESOLUTION NO. 2020-07**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN GORONIO PASS WATER (1) AUTHORIZING AMENDMENTS TO THE SAN GORONIO PASS WATER AGENCY LONG TERM WATER SUPPLY CONTRACT WITH THE DEPARTMENT OF WATER RESOURCES TO SUPPLEMENT AND CLARIFY WATER MANAGEMENT TOOLS REGARDING TRANSFERS AND EXCHANGES OF SWP WATER; AND (2) MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO CEQA FOR THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE STATE WATER PROJECT SUPPLY CONTRACT AMENDMENTS FOR WATER MANAGEMENT, AND ADOPTING CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS**

**WHEREAS**, the San Gorgonio Pass Water Agency has a long term water supply contract (SWP Contract) with the State of California Department of Water Resources (DWR) for the delivery of State Water Project (SWP) water; and

**WHEREAS**, under the existing SWP Contract, water transfers are permitted in a limited and very specific manner, resulting in their infrequent use, and the parameters for exchanges of water, while allowed, lack specificity and clear guidance, which impede planning; and

**WHEREAS**, the San Gorgonio Pass Water Agency, along with other public water agencies with SWP Contracts (PWAs) conducted a series of public negotiations with DWR with the goal of agreeing on concepts to supplement and clarify the existing water transfer and exchange provisions of the SWP Contracts to provide improved water management; and

**WHEREAS**, in June 2018, PWAs and DWR agreed upon an Agreement in Principle (AIP), which included specific principles to clarify and enhance the terms of the SWP water supply contract related to water transfers and exchanges to improve water management capabilities and PWA options; and

**WHEREAS**, in October 2018, DWR circulated a Draft Environmental Impact Report (2018 DEIR) that considered impacts related to the AIP, which at that time also included certain cost allocation sections for the California WaterFix project (WaterFix); and

**WHEREAS**, in early 2019, Governor Newsom decided not to move forward with California WaterFix and DWR rescinded its approvals of the AIP project. The PWAs and DWR subsequently held a public negotiation and agreed to remove the WaterFix cost allocation sections from AIP, but to retain the water management provisions, and the AIP was finalized on May 20, 2019; and

**WHEREAS**, the proposed amendment to the San Gorgonio Pass Water Agency's SWP Contract for consideration by the Board articulates in contract language the principles of the final AIP; and

**WHEREAS**, DWR is the lead agency for the water management amendments, called the State Water Project Supply Contract Amendments for Water Management (Project), pursuant to CEQA (Pub. Res. Code §§ 21000, et seq.) and the State CEQA Guidelines (14 CCR §§ 15000, et seq.). As the lead agency, DWR is responsible for assuring that an adequate analysis of the Project's environmental impacts is conducted; and



**WHEREAS**, on February 28, 2020, DWR issued a Partially Recirculated Draft Environmental Impact Report (DEIR) for the Project, which was circulated for public review for 94 days through June 1, 2020; and

**WHEREAS**, DWR prepared a Final Environmental Impact Report for the Project, which included the DEIR, appendices, comments on the DEIR, responses to comments on the DEIR, and revisions to the DEIR (collectively, FEIR); and

**WHEREAS**, on August 25, 2020, DWR certified the FEIR, adopted CEQA Findings of Fact and Statement of Overriding Considerations and approved the Project; and

**WHEREAS**, the FEIR concluded that the Project would have significant and unavoidable impacts to groundwater hydrology and water quality, and cumulatively considerable and unavoidable impacts to groundwater supplies and subsidence. As such, DWR adopted CEQA Findings of Fact and Statement of Overriding Considerations for the Project (attached as Exhibit “A”); and

**WHEREAS**, the San Gorgonio Pass Water Agency and DWR propose to amend the San Gorgonio Pass Water Agency’s SWP Contract by approving the amendment attached as Exhibit “B” to this Resolution (Amendment), the environmental effects of which were studied in the FEIR; and

**WHEREAS**, the San Gorgonio Pass Water Agency is a responsible agency and has more limited approval and implementing authority over the Amendment than does the DWR; and

**WHEREAS**, the Board of Directors of the San Gorgonio Pass Water Agency, at its scheduled public meeting on October 12, 2020 independently reviewed and considered the FEIR, CEQA Findings of Fact and Statement of Overriding Considerations, and other related documents and evidence in the record before it; and

**WHEREAS**, all the procedures of CEQA and the State CEQA Guidelines have been met, and the FEIR prepared in connection with the Project is sufficiently detailed so that all the potentially significant effects of the Project and the Amendment on the environment and measures feasible to avoid or substantially lessen such effects have been evaluated in accordance with CEQA; and

**WHEREAS**, as contained herein, the San Gorgonio Pass Water Agency has endeavored in good faith to set forth the basis for its decision on the Amendment;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN GORGONIO PASS WATER AGENCY AS FOLLOWS:**

1. The above recitals are true and correct and are incorporated herein by reference as an operative portion of this Resolution.
2. Based on the above findings, the Board hereby approves the Amendment and authorizes the General Manger to execute it on behalf of the San Gorgonio Pass Water Agency, which is incorporated herein and attached hereto as Exhibit “B”.

3. The FEIR prepared for the Project, which can be found at <https://water.ca.gov/News/Public-Notices/2020/August/SWP-Water-Supply-Contract-EIR>, is hereby received by the Board and incorporated herein by this reference

4. Pursuant to State CEQA Guidelines section 15096 and in its limited role as a responsible agency under CEQA, the Board has reviewed and considered the FEIR, as well as DWR's certification of the FEIR and approval of the Project, and DWR's CEQA Findings of Fact and Statement of Overriding Considerations, and the Board incorporates those items herein by reference. As to those resources within the San Gorgonio Pass Water Agency's power and authority as a responsible agency under CEQA, the Board exercises its independent judgment and finds that the FEIR contains a complete, objective and accurate reporting of the Amendment's impacts.

5. Exercising its independent judgment, the Board concurs with the CEQA Findings of Fact and Statement of Overriding Considerations approved by DWR and hereby adopts those CEQA Findings of Fact and Statement of Overriding Considerations, attached hereto as Exhibit "A" and incorporated herein by this reference. The Board further finds that there are no feasible mitigation measures or alternatives within its authority that would substantially lessen or avoid any significant effects that the Project would have on the environment, for the reasons explained in the FEIR.

6. The Board concurs with the Statement of Overriding Considerations adopted by DWR and finds that the benefits of the Amendment outweigh the adverse environmental impacts not reduced to below a level of significance.

7. The Board hereby authorizes and directs staff to file and have posted a Notice of Determination with the County Clerk and with the State Clearinghouse within 5 working days of the adoption of this Resolution.

8. The documents and materials that constitute the record of proceedings for this Resolution are located at San Gorgonio Pass Water Agency, 1210 Beaumont Avenue, Beaumont, CA – Contact Person: General Manager Lance Eckhart.

APPROVED AND ADOPTED this 19th day of October, 2020.

SAN GORGONIO PASS WATER AGENCY

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Ron Duncan  
President, Board of Directors

ATTEST:

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Secretary, Board of Directors

**Exhibit "A"**

**DWR's CEQA Findings of Fact and Statement of Overriding Considerations**

**Exhibit "B"**  
**Proposed SWP Contract Amendment**

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# CEQA Findings of Fact and Statement of Overriding Considerations for the State Water Project Water Supply Contract Amendments for Water Management

## Section 1. Description of the Project

The proposed project includes amending certain provisions of the State Water Resources Development System (SWRDS) Water Supply Contracts (Contracts). SWRDS (defined in Wat. Code, Section 12931), or more commonly referred to as the SWP, was enacted into law by the Burns-Porter Act, passed by the Legislature in 1959 and approved by the voters in 1960. The Department of Water Resources constructed and currently operates and maintains the SWP, a system of storage and conveyance facilities that provide water to 29 State Water Contractors known as the Public Water Agencies (PWAs)<sup>1</sup>. The Contracts include water management provisions as the methods of delivery, storage and use of water and financial provisions for recovery of costs associated with the planning, construction, and operation and maintenance of the SWP.

DWR and the PWAs have a common interest to ensure the efficient delivery of SWP water supplies and to ensure the SWP's financial integrity. In order to address water management flexibility DWR and the PWAs agreed to the following objectives:

- Supplement and clarify terms of the SWP water supply contract that will provide greater water management regarding transfers and exchanges of SWP water supply within the SWP service area.

The proposed project would add, delete, and modify provisions of the Contracts and clarify certain terms of the Contracts that will provide greater water management regarding transfers and

<sup>1</sup> The State Water Project Public Water Agencies include Alameda County Flood Control and Water Conservation District (Zone 7), Alameda County Water District, Antelope Valley-East Kern Water Agency, City of Yuba City, Coachella Valley Water District, County of Butte, County of Kings, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Dudley Ridge Water District, Empire West Side Irrigation District, Kern County Water Agency, Littlerock Creek Irrigation District, The Metropolitan Water District of Southern California, Mojave Water Agency, Napa County Flood Control and Water Conservation District, Oak Flat Water District, Palmdale Water District, Plumas County Flood Control and Water Conservation District, San Bernardino Valley Municipal Water District, San Gabriel Valley Municipal Water District, San Geronio Pass Water Agency, San Luis Obispo County Flood Control and Water Conservation District, Santa Barbara County Flood Control and Water Conservation District, Santa Clara Valley Water District, Santa Clarita WA (formerly Castaic Lake WA), Solano County Water Agency, Tulare Lake Basin Water Storage District, and Ventura County Flood Control District.

exchanges of SWP water within the SWP service area. In addition, the proposed project would not build new or modify existing SWP facilities nor change any of the PWA's annual Table A amounts.<sup>2</sup> The proposed project would not change the water supply delivered by the SWP, as SWP water would continue to be delivered to the PWAs consistent with current Contract terms and all regulatory requirements. The May 20, 2019 AIP is included as Appendix A of the 2020 Partially Recirculated Draft Environmental Impact Report (RDEIR).

## Section 2. Findings Required Under CEQA

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environment impacts that would otherwise occur. Mitigation measures or alternatives are not required, however, where such changes are infeasible or where the responsibility for the project lies with some other agency. (CEQA Guidelines, Section 15091, sub. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, Sections 15093, 15043, sub. (b); see also Pub. Resources Code, Section 21081, sub. (b).)

In seeking to effectuate the substantive policy of CEQA to substantially lessen or avoid significant environmental effects to the extent feasible, an agency, in adopting findings, need not necessarily address the feasibility of both mitigation measures and environmentally superior alternatives when contemplating approval of a proposed project with significant impacts. Where a significant impact can be mitigated to an "acceptable" level solely by the adoption of feasible mitigation measures, the agency, in drafting its findings, has no obligation to consider the feasibility of any environmentally superior alternative that could also substantially lessen or avoid that same impact — even if the alternative would render the impact less severe than would the proposed project as mitigated. (*Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-731; and *Laurel Heights Improvement Association v. Regents of the University of California* ("Laurel Heights I") (1988) 47 Cal.3d 376, 400-403.)

In cases in which a project's significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the "benefits of the project outweigh the significant effects on the environment." (Pub. Resources Code, Section 21081, sub. (b); see also, CEQA Guidelines, Sections 15043, subd. (b), 15093 .)

<sup>2</sup> The maximum amount of SWP water that the PWAs can request pursuant to their individual water supply contract. annual Table A amounts also serve as a basis for allocation of some SWP costs among the contractors.

In the Statement of Overriding Considerations found at the conclusion of this exhibit, DWR identifies the benefit that, in its judgment, outweighs the significant environmental effects that the projects would cause.

The California Supreme Court has stated that “[t]he wisdom of approving ... any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Citizens of Goleta* (1990) 52 Cal.3d 553, 564.)

In support of its approval of the proposed project, DWR’s findings are set forth below for the potentially significant environmental effects and alternatives of the proposed project identified in the EIR pursuant to Public Resources Code, Section 21080 and Section 15091 of the CEQA Guidelines.

These findings do not attempt to describe the full analysis of each environmental impact contained in the 2018 DEIR and 2020 RDEIR (collectively referred to in this document as the DEIR). Instead, a full explanation of these environmental findings and conclusions can be found in the DEIR and these findings hereby incorporate by reference the discussion and analysis in the DEIR supporting the determination regarding the impacts of the proposed project. In making these findings, DWR ratifies, adopts and incorporates in these findings the determinations and conclusions of the DEIR and Final EIR (FEIR) relating to environmental impacts except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As described below and in the DEIR, there were two significant impacts identified for the proposed project and they were associated with groundwater hydrology and water quality. There were no mitigation measures identified in the DEIR to substantially lessen or avoid the potentially significant and significant groundwater resource impacts of the proposed project. Therefore, a Mitigation Monitoring and Reporting Program was not developed for the proposed project and is not included herein.

Unless otherwise specified, all page references presented herein are to the 2020 RDEIR.

## 2.1. Significant and Unavoidable Impacts

The following significant and potentially significant environmental impacts of the project are unavoidable and cannot be mitigated in a manner that would lessen the significant impact to below the level of significance. Notwithstanding disclosure of these impacts, DWR elects to approve the project due to overriding considerations as set forth below in Section 7, the statement of overriding considerations.

## **Impact Category: Groundwater Hydrology and Water Quality**

**Impact 5.10-1:** The increase in groundwater pumping associated with changes in transfers and exchanges implemented by PWAs could substantially deplete groundwater supplies in some areas of the study area. [p. 5.10-17 – 5.10-21]

**Finding.** It is possible that transfers and exchanges of SWP water among the PWAs could result in benefits to groundwater levels, as transferred or exchanged water could be used instead of groundwater supplies or this water could be used for groundwater recharge. However, it is also possible that transfers and exchanges from agricultural to M&I PWAs could result in an increase in groundwater pumping resulting in a net deficit in aquifer volume or lowering the local groundwater table in some areas of the study area. DWR's conclusion is based on a program-level analysis, as there is uncertainty in the amount of groundwater use that may occur.

Because the Sustainable Groundwater Management Act (SGMA) is in the process of being implemented and because the extent, location, and implementation timing of groundwater pumping associated with changes in transfers and exchanges implemented by PWAs are not known, assumptions related to the ability of SGMA to mitigate any changes in groundwater levels are speculative.

PWAs could propose feasible mitigation measures to reduce significant impacts to less than significant in some cases, although it is not possible for DWR to conclude that feasible mitigation measures would be available to avoid or mitigate significant groundwater effects in all cases. Per CEQA Guidelines Section 15091(a)(2), implementation and enforcement mitigation measures are within the responsibility and jurisdiction of another public agency and not the agency making the finding.

The extent, location, and implementation timing of groundwater pumping associated with changes in transfers and exchanges implemented by PWAs are not known. Therefore, it is concluded that the potential increase in groundwater pumping could result in a net deficit in aquifer volume or lowering the local groundwater table. **For these reasons, this impact is significant and unavoidable.**

**Impact 5.10-2:** The increase in groundwater pumping associated with changes in transfers and exchanges implemented by PWAs could result in subsidence in some of the study area. [p. 5.10-22 – 5.10-25]

**Finding.** It is possible that transfers and exchanges among the PWAs could result in benefits to groundwater levels, as transferred or exchanged water could be used instead of groundwater supplies or this water could be used for groundwater recharge. However, it is also possible that transfers and exchanges from agricultural to M&I PWAs could result in an increase in groundwater pumping in some areas of the study area causing subsidence due to a net deficit in aquifer volume or lowering the local groundwater table. Because the extent, location, and implementation timing of groundwater pumping associated with changes in transfers and exchanges implemented by PWAs are not known, it is concluded that groundwater pumping in



some areas of the study area would cause subsidence due to a net deficit in aquifer volume or lowering the local groundwater table and the impact would be potentially significant.

Because SGMA is in the process of being implemented and because the extent, location, and implementation timing of groundwater pumping associated with changes in transfers and exchanges implemented by PWAs are not known, assumptions related to the ability of SGMA to mitigate any changes in groundwater levels or related subsidence are speculative.

PWAs could propose feasible mitigation measures to reduce significant impacts to less than significant in some cases, although it is not possible for DWR to conclude that feasible mitigation measures would be available to avoid or mitigate significant groundwater effects in all cases. Per CEQA Guidelines Section 15091(a)(2), implementation and enforcement mitigation measures are within the responsibility and jurisdiction of another public agency and not the agency making the finding.

DWR has no information on specific implementation of the transfers and exchanges from the proposed project and it has no authority to implement mitigation measures in the PWA service area. **For these reasons, this impact is significant and unavoidable.**

### **Section 3. Cumulative Impacts**

Cumulative impacts, as defined in Section 15355 of the CEQA Guidelines, refer to two or more individual effects that, when taken together, are “considerable” or that compound or increase other environmental impacts. Cumulative impacts can result from individually minor, but collectively significant, actions when added to the impacts of other closely related past, present, or reasonably foreseeable future projects. Pertinent guidance for cumulative impact analysis is provided in Section 15130 of the CEQA Guidelines.

The DEIR presents the cumulative impact analysis for the proposed project. Each impact discussion in the DEIR assesses whether the incremental effects of the proposed project could combine with similar effects of one or more of the projects identified in the 2020 RDEIR (p.6-2 – 6.14) to cause or contribute to a significant cumulative effect. If so, the analysis considers whether the incremental contribution of the proposed project would be cumulatively significant (p. 6-8 –6-14).

DWR hereby finds that implementation of the proposed project would not result in physical environmental impacts on the following resource areas: hazards and hazardous materials; noise; population, employment and housing; public services and recreation; surface water hydrology and water quality; transportation; and utilities and service systems. Therefore, these resource areas would not contribute to a cumulative effect and would not compound or increase an environmental impact of these other projects.

The cumulative impact analysis associated with the remaining resource areas (aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, energy, geology and soils, GHG, groundwater hydrology and water quality, land use and planning, and water supply) focused on six types of impacts that were identified as less than significant or

potential impacts of the proposed project that could contribute to cumulative impacts with the cumulative projects (Contract Extension Project, Monterey Amendment and Settlement Agreement, and Sustainable Groundwater Management Act Implementation) identified in the DEIR. The six types of impacts are impacts to groundwater supplies, subsidence, fallowing and changes in crop patterns, energy and Greenhouse Gas (GHG), reservoir storage, and surface water flow above or below diversions. Impacts associated with fallowing and changes in crop patterns, energy and GHG, reservoir storage, and surface water flow above or below diversions were determined to be less than significant with no mitigation required.

Related to groundwater supplies and subsidence, DWR hereby finds as follows:

### **Groundwater Supplies and Subsidence**

**Findings.** The incremental contribution of the proposed project's effect on groundwater supplies and subsidence would be cumulatively considerable when viewed in connection with the effects of past projects, and current and probable future projects (as full implementation of SGMA is not anticipated until 2040 or 2042). This cumulative impact would be **significant**. PWAs may provide mitigation in their project-level analysis for exchanges and transfers. However, per CEQA Guidelines Section 15091(a)(2), implementation and enforcement mitigation measures are within the responsibility and jurisdiction of another public agency and not the agency making the finding.

Because DWR has no information on specific implementation of the transfers and exchanges from the proposed project and it has no authority to implement mitigation measures in the PWA service area, the cumulative impact would remain **significant and unavoidable**.

## **Section 4. Significant Irreversible Environmental Changes**

According to Sections 15126, subd. (c) and 15126.2, subd. (c) of the CEQA Guidelines, an EIR is required to address any significant irreversible environmental changes that would occur should the proposed project be implemented.

The proposed project would add, delete and modify provisions of the Contracts to clarify terms of the Contracts that will provide greater water management regarding transfers and exchanges of SWP water supply within the service area. The proposed project would not build or modify existing SWP facilities nor change each PWA's contractual maximum Table A amounts. The proposed project would amend and add financial provisions to the Contracts based on the negotiated Agreements in Principle between DWR and the PWAs. Therefore, the proposed project would not result in the commitment of nonrenewable natural resources such as gravel, petroleum products, steel, and slowly renewable resources such as wood products any differently than under existing conditions, and there would be no significant irreversible environmental changes.

## Section 5. Growth-Inducing Effects

The CEQA Guidelines Section 15126.2, subd. (d) requires that an EIR evaluate the growth-inducing impacts of a project. As identified in CEQA Section 15126.2(d), growth inducement is not in and of itself an “environmental impact;” however, growth can result in adverse environmental consequences. Growth inducement may constitute an adverse impact if the growth is not consistent with or accommodated by the land use plans and policies for the affected area. Local land use plans, typically General Plans, provide for land use development patterns and growth policies that allow for the “orderly” expansion of urban development supported by adequate urban public services, such as water supply, sewer service, and new roadway infrastructure. A project that would induce “disorderly” growth (i.e., a project in conflict with local land use plans) could indirectly cause adverse environmental impacts. To assess whether a project with the potential to induce growth is expected to result in significant impacts, it is important to assess the degree to which the growth associated with a project would or would not be consistent with applicable land use plans.

In California, cities and counties have primary authority<sup>3</sup> over land use decisions, while water suppliers, through laws and agreements, are expected and usually required to provide water service if water supply is available. Approval or denial of development proposals is the responsibility of the cities and counties in the study area. Numerous laws are intended to ensure that water supply planning, including planning for water supply infrastructure, and land use planning (such as the approval of, or establishment of constraints to, development) proceed in an orderly fashion.

The proposed project would not build new or modify existing SWP facilities nor change each PWA’s contractual maximum Table A amounts. As discussed in DEIR Section 5.14, Population, Employment, and Housing, (p. 5.14-2 to 5.14-5) because there would be no new facilities built or existing facilities modified, no housing is proposed as part of the project or required as a result of it, nor would the project provide substantial new permanent employment opportunities. Therefore, the proposed project would not result in direct growth inducement.

Because the proposed project would not result in the construction of new or modification of existing water supply storage, treatment or conveyance facilities it would not remove an obstacle to growth associated with water supply.

As discussed in DEIR Section 5.3 Agricultural and Forestry Resources of the DEIR (p. 5.3-7 to 5.3-9), it is possible that transfers from agricultural to M&I PWAs could result in fallowing of agricultural lands and/or changes in crop patterns (e.g., switching from high water-using crops to low water-using crops) in the study area. It is also possible that exchange of SWP water from agricultural to M&I PWAs could occur. However, these transfers and exchanges and any associated fallowing of agricultural land and/or changes in cropping patterns in the study area would not be anticipated to change the existing agricultural land use designations because the land use would remain in agricultural use. Furthermore, additional water transfers or exchanges

<sup>3</sup> Although cities and counties have primary authority over land use planning, there are exceptions to this such as the CEC (with permit authority and CEQA lead agency status for some thermal power plant projects) and the CPUC (with regulatory authority and CEQA lead agency status for certain utility projects).

are not expected to substantially affect the acreage of land fallowed or put into dry farming compared to existing practices for other reasons (e.g., market conditions, economic conditions, etc.). As a result, it would not be anticipated that there would be a change in land uses associated with delivery of SWP water supplies including, conversion of agricultural land uses to urban uses or increased developed uses in urban areas.

While with the proposed amendments transfers and exchanges could be more frequent and longer in duration, they would not be a permanent transfer of a PWAs annual Table A amounts; therefore, it would not represent a viable long-term source of urban water supply to support additional unplanned growth. Therefore, the proposed amendments would not result in additional water supply that could support growth over what is currently planned for in those jurisdictions and the proposed project would not result in indirect growth inducement.

Furthermore, cities and counties are responsible for considering the environmental effects of their growth and land use planning decisions (including, but not limited to, conversion of agricultural land to urban uses, loss of sensitive habitats, and increases in criteria air emissions). As new developments are proposed, or general plans adopted, local jurisdictions prepare environmental compliance documents to analyze the impacts associated with development in their jurisdiction pursuant to CEQA. The impacts of growth would be analyzed in detail in general plan EIRs and in project-level CEQA compliance documents. Mitigation measures for identified significant impacts would be the responsibility of the local jurisdictions in which the growth would occur. If identified impacts could not be mitigated to a level below the established thresholds, then the local jurisdiction would need to adopt overriding considerations.

## **Section 6. Alternatives**

DWR has considered the project alternatives presented and analyzed in the DEIR and presented during the comment period and public hearing process. DWR finds that these alternatives are infeasible. Based on the impacts identified in the DEIR and other reasons summarized below, and as supported by substantial evidence in the record, DWR finds that approval and implementation of the proposed project as proposed is the most desirable, feasible, and appropriate action and hereby rejects the other alternatives and other combinations and/or variations of alternatives as infeasible based on consideration of the relevant factors set forth in CEQA Guidelines Section 15126.6, subdivision (f). (See also CEQA Guidelines, Section 15091, subd. (a)(3).) Each alternative and the facts supporting the finding of infeasibility of each alternative are set forth below.

### **Alternatives Considered and Dismissed from Further Consideration**

The alternative described below was rejected for further consideration (p 7-3 – 7-4).

**Implement New Water Conservation Provisions in the Contracts:** Agriculture and urban water efficiency, conservation, and management measures are governed by the existing regulatory and legal requirements independent from the proposed project, including Assembly

Bill 1668 and Senate Bill 606. Additional water conservation measures in the Contracts would not provide greater water management regarding transfers and exchanges of SWP water as compared to the proposed project because water conservation is already required. Consequently, these actions are independent from the proposed project and do not meet the basic project objectives. Therefore, amending the Contracts to require implementation of agriculture and M&I water conservation measures was rejected, as these actions are required by state statute and are met by local water agencies under existing law.

## Summary of Alternatives Considered

CEQA requires that an EIR describe and evaluate a range of reasonable alternatives to a project or to the location of a project that would feasibly attain most of the basic project objectives and avoid or substantially lessen significant project impacts. The purpose of the alternatives analysis is to determine whether or not a variation of the proposed project would reduce or eliminate significant project impacts within the framework of the project's basic objectives.

The alternatives considered in the DEIR include:

- Alternative 1: No Project
- Alternative 2: Reduce Table A Deliveries
- Alternative 3: Reduced Flexibility in Water Transfers/Exchanges
- Alternative 4: More Flexibility in Water Transfers/Exchanges
- Alternative 5: Only Agriculture to M&I Transfers Allowed

### Alternative 1: No Project

#### Description

CEQA Guidelines section 15126.6, subd. (e) requires consideration of a No Project Alternative. The purpose of this alternative is to allow the decision makers to compare impacts of approving a project with impacts of not approving a project. Under the No Project Alternative, DWR takes no action, and DWR and the PWAs would continue to operate and finance the SWP under the current Contracts.

#### Facts in Support of Finding of Infeasibility

Alternative 1 would not meet the objective of the project because Alternative 1 does not provide greater water management regarding transfers and exchanges of SWP water supply within the SWP service area and as compared to the proposed project. In addition, impacts under Alternative 1 would be similar but greater when compared to the proposed project. Alternative 1 could result in new potentially significant impacts associated with the construction and operation of new water supply facilities that were not identified for the proposed project. In addition, if alternative sources of water are not available, then the less than significant impacts identified for the proposed project could be potentially significant.

## Alternative 2: Amending Contract to Reduce Table A Deliveries

### Description

Under Alternative 2, as with the proposed project, DWR and the PWAs would agree to amend the Contracts based on the May 20, 2019 AIP. However, unlike the proposed project, the Contracts would be amended to reduce annual Table A amounts proportionately for all the PWAs.

### Facts in Support of Finding of Infeasibility

Alternative 2 would not meet the objectives of the project because it would cause a reduction in delivery of annual Table A amounts proportional for all PWAs and would not provide greater water management regarding transfers and exchanges. In addition, impacts under Alternative 2 would be similar but greater when compared to the proposed project. Alternative 2 could result in new potentially significant impacts associated with the construction and operation of new water supply facilities that were not identified for the proposed project. In addition, if alternative sources of water are not available, then the less than significant impacts identified for the proposed project could be potentially significant.

## Alternative 3: Less Flexibility in Water Transfers/Exchanges

### Description

Under Alternative 3, as with the proposed project, DWR and the PWAs would agree to amend the Contracts based on the May 20, 2019 AIP. However, unlike the proposed project, the Contracts would not be amended to modify provisions of the Contracts and clarify certain terms of the Contracts to provide greater water management regarding transfers and exchanges of SWP water supply within the SWP service area. Some increase in flexibility of exchanges and transfers would be agreed to, but not all. For example, Alternative 3 would amend the Contracts to allow PWAs to transfer carryover water in San Luis Reservoir, but only 20 percent of the carryover water (the proposed project allows for 50 percent), allow limited multi-year transfers of five years or less (the proposed project allows for up to the Contract term), and not allow use of Transfer Packages. In addition, unlike the proposed project, PWAs would transfer water based on cost compensation established by DWR. Also, under Alternative 3, the Contracts would not amend the text in Article 56(f) regarding water exchanges to add provisions, such as conducting water exchanges as buyers and sellers in the same year and increasing the compensation allowed to facilitate the exchanges. Therefore, Alternative 3 would result in a similar or slightly less amount of water transfers among the PWAs than the proposed project, due to the less flexibility in water transfers and exchanges.

### Facts in Support of Finding of Infeasibility

Alternative 3 would meet the objectives of the project, but to a lesser degree because the water transfers and exchanges would not provide as much water management flexibility regarding transfers and exchanges. In addition, impacts under Alternative 3 would be similar but greater

when compared to the proposed project. Alternative 3 could result in new potentially significant impacts associated with the construction and operation of new water supply facilities that were not identified for the proposed project. In addition, if alternative sources of water are not available, then the less than significant impacts identified for the proposed project could be potentially significant.

## **Alternative 4: More Flexibility in Water Transfer/Exchanges**

### **Description**

Under Alternative 4, as with the proposed project, DWR and the PWAs would agree to amend the Contracts. However, unlike the proposed project, the Contracts would be amended to allow PWAs more flexibility in water transfers and exchanges. Similar to the proposed project, PWAs would be able to transfer carryover water in San Luis Reservoir, transfer water for multiple years without permanently relinquishing that portion of their Table A amounts, and transfer water in Transfer Packages. Similar to the proposed project, PWA would be able to transfer water based on terms they establish for cost compensation and duration, and store and transfer water in the same year. Unlike the proposed project that only allows for a single-year transfers associated with carryover water, Alternative 4 would allow transfers and exchanges to include up to 100 percent of a PWA's carryover in San Luis Reservoir and allow multi-year use of its carryover water in both transfers and exchanges. Similar to the proposed project, the proposed exchange provisions of the AIP would establish a larger range of return ratios in consideration of varying hydrology and also maximum compensation with respect to SWP charges and allow PWAs to conduct additional water exchanges as buyers and sellers in the same year.

### **Facts in Support of Finding of Infeasibility**

Alternative 4 would meet the objectives of the project. In addition, Under Alternative 4 the less than significant impacts associated with changes in flow including, adverse effects to special-status fish or terrestrial species, and water supply would be similar to the proposed project. However, similar to the proposed project, there is potential for Alternative 4 to result in a net deficit in aquifer volume, lowering of the local groundwater table, or subsidence in some areas of the study area with impacts that may be significant and unavoidable.

## **Alternative 5: Greater Water Management – Only Agriculture to M&I Transfers Allowed**

### **Description**

Under Alternative 5, as with the proposed project, DWR and the PWAs would agree to amend the Contracts based on the May 20, 2019 AIP.

Unlike the proposed project, DWR and PWAs would amend Contract provisions to allow the transfer of Table A water only from agricultural PWAs to M&I PWAs and not change any current Contract provisions for exchanges. Transfers from M&I PWAs to M&I PWAs, M&I PWAs to agricultural PWAs, and agricultural PWAs to agricultural PWAs would not be allowed. Similar to

the proposed project, PWAs could transfer carryover water in San Luis Reservoir to PWAs, transfer water for multiple years without permanently relinquishing that portion of their Table A amounts and request DWR's approval of Transfer Package; however, unlike the proposed project, these transfers would only be from agricultural PWAs to M&I PWAs. Similar to the proposed project, Alternative 5 would revise the Contract to allow the PWAs to transfer water based on terms they establish for cost compensation and duration. An agricultural PWA would be able to store and transfer water in the same year to M&I PWAs, and transfer up to 50 percent of its carryover water, but only for a single-year transfer to an M&I PWA (i.e., a future or multi-year commitment of transferring carryover water is not allowed). Under Alternative 5, the Contracts would not be amended to modify the text in Article 56(f) regarding water exchanges to include additional provisions, such as conducting water exchanges as buyers and sellers in the same year.

Similar to the proposed project, Alternative 5 would not build new or modify existing SWP facilities nor change any of the PWA's contractual maximum Table A amounts. Also similar to the proposed project, Alternative 5 would not change the water supply delivered by the SWP as SWP water supply would continue to be delivered to the PWAs consistent with current Contracts terms, including Table A and Article 21 deliveries. Operation of the SWP under this alternative would be subject to ongoing environmental regulations including for water rights, water quality and endangered species protection, among other State and federal laws. Also similar to the proposed project, Alternative 5 would not require additional permits or approvals.

## **Facts in Support of Finding of Infeasibility**

Alternative 5 would meet some of the objectives of the project, but to a lesser degree because the water transfers and exchanges would not provide as much water management flexibility regarding transfers and exchanges. In addition, impacts under Alternative 5 would be similar but greater when compared to the proposed project. Alternative 5 could result in new potentially significant impacts associated with the construction and operation of new water supply facilities that were not identified for the proposed project. In addition, if alternative sources of water are not available, then the less than significant impacts identified for the proposed project could be potentially significant.

## **Environmentally Superior Alternative**

CEQA Guidelines Section 15126.6 subd. (e) requires the identification of an environmentally superior alternative to the proposed project.

As presented in the DEIR, implementation of the proposed project would result in less than significant or no physical environmental impacts to all resource areas except for impacts related to groundwater supplies and subsidence, which are significant and unavoidable.

Alternative 4 would result in similar impacts as the proposed project (e.g., net deficit in aquifer volume, lowering of the local groundwater table, or subsidence in some areas of the study area). Alternatives 1, 2, 3, and 5 could result in impacts similar or greater (new potentially significant impacts associated with the construction and operation of new water supply facilities that were not identified for the proposed project) than the proposed project. Therefore, because the



proposed project and Alternative 4 would result in similar impacts and the other alternatives may result in similar or greater impacts, Alternative 4 was determined to be the environmentally superior alternative.

## **Section 7. Statement of Overriding Considerations**

DWR hereby declares that, pursuant to CEQA Guidelines Section 15093, it has balanced the benefits of the proposed project against any unavoidable environmental impacts in determining whether to approve the proposed project. Pursuant to the CEQA Guidelines, if the benefits of the proposed project outweigh the unavoidable adverse environmental impacts, those impacts may be considered “acceptable.”

Having evaluated the reduction of adverse significant environmental effect of the proposed project to the extent feasible, considered the entire administrative record on the Project, and weighed the benefits of the proposed project against its unavoidable adverse impact, DWR has determined that each of the following benefits of the proposed project separately and individually outweigh the potential unavoidable adverse impacts and render those potential adverse impacts acceptable based upon the following overriding considerations. The following represents the specific reasons to support this determination based on the final EIR and information contained therein.

### **Water Transfers**

The proposed project would add, delete, and modify provisions of the Contracts and clarify certain terms of the Contracts that will provide greater water management regarding transfers and exchanges of SWP water within the SWP service area.

The transfer provisions of the proposed project would facilitate the PWAs ability to:

- Transfer SWP water for multiple years and multiple parties without permanently relinquishing that portion of their annual Table A amounts;
- negotiate cost compensation and duration among the PWAs on a willing seller-willing buyer basis for water transfers; and
- Transfer SWP water stored outside of the transferring PWA’s service area to the receiving PWA’s service area

All these proposed transfer provisions would provide the PWAs with increased flexibility for short-term and long-term planning and management of their SWP water supplies. The proposed project, however, would not include any change to the PWA’s permanent annual Table A amounts.

Since the Monterey Amendment, DWR has approved short-term water transfers pursuant to Articles 15(a) and 41, and has administered the short-term Turn-Back Water Pool Program pursuant to Article 56 of the Contracts. The Turn-Back Water Pool Program allows a PWA to sell Table A water that it will not use, subject to certain conditions, for a set price that is either 50

percent or 25 percent of the Delta Water Rate for that year. DWR has also administered, on a demonstration basis, a multi-year water pool program for 2013-2014 and 2015-2016 that allowed PWAs to participate in the two-year program as either a buyer or seller for each of the two years (a decision made at the beginning of each of the two-year programs) with greater compensation for the water than allowed under the Turn-Back Water Pool Program. DWR has allowed transfers of Table A water among two PWAs with the same landowner in their respective service areas that do not include an exchange of money.

The proposed project would remove all language related to the Turn-back Pool from the Contracts and, compared to the Turn-Back Water Pool Program where DWR established the price based on the Delta water rate, the proposed project would revise the Contracts to allow the PWAs to transfer water based on terms they establish for cost compensation and duration. Also, in contrast to the Turn-Back Water Pool Program, a water transfer could be as long as the remainder of the term of the PWA's Contract. In addition, a PWA would be able to store and transfer water in the same year, and transfer up to 50 percent of its carryover water in San Luis Reservoir, but only for a single-year transfer (i.e., a future or multi-year commitment of transferring carryover water is not allowed).

The proposed amendments would result in a greater amount of water transfers among the PWAs than under the current Contract provisions. Based on past experience and discussions with PWAs, most water transfers that occur due to the proposed amendments would occur among the PWAs located south of the Delta and would not involve additional export of SWP water from the Delta. Water transfers would be implemented using the existing physical facilities and existing operational and regulatory processes, including CEQA compliance.

## Water Exchanges

The proposed project would amend the text in Article 56(f) regarding water exchanges to include additional provisions. The proposed exchange provisions of the AIP would establish return ratios (up to a 5:1 ratio) based on a consideration of varying hydrology and would set compensation based on a PWA's SWP charges.

The proposed amendments would allow PWAs to exchange carryover water in San Luis Reservoir, and exchange up to 50 percent of their carryover water in a single-year transaction (i.e., a future or multi-year commitment of exchanging carryover water is not allowed). The proposed provisions would also allow PWAs to conduct water exchanges of carryover water as buyers and sellers in the same year.

While DWR has approved water exchanges pursuant to Articles 15(a), 41, and 56(f), the proposed project would provide the PWAs with increased flexibility for short-term and long-term planning of water supplies. Under the proposed project, exchanges may be used more frequently to respond to variations in hydrology, such as wet years, and in single dry-year and multiple dry-year conditions.

## Acronyms and Glossary

AIP	Agreement in Principle
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
Contracts	Water Supply Contracts
DEIR	Draft Environmental Impact Report
DWR	California Department of Water Resources
EIR	Environmental Impact Report
FEIR	Final EIR
PRC	California Public Resources Code
PWAs	Public Water Agencies
RDEIR	Recirculated Draft Environmental Impact Report
SGMA	Sustainable Groundwater Management Act
SWC	State Water Contractors
SWP	State Water Project

STATE OF CALIFORNIA  
CALIFORNIA NATURAL RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 20 (THE WATER MANAGEMENT AMENDMENT)  
TO WATER SUPPLY CONTRACT  
BETWEEN  
THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES  
AND  
SAN GORGONIO PASS WATER AGENCY

THIS AMENDMENT to the Water Supply Contract is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ pursuant to the provisions of the California Water Resources Development Bond Act, the Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State," and San Gorgonio Pass Water Agency, herein referred to as the "Agency."

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## RECITALS

- A. The State and the Agency entered into and subsequently amended a water supply contract (the “contract”), dated November 16, 1962, providing that the State shall supply certain quantities of water to the Agency and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payments; and
- B. The State and the Agency, in an effort to manage water supplies in a changing environment, explored non-structural solutions to provide greater flexibility in managing State Water Project (SWP) water supplies; and
- C. The State and the Agency, in an effort to support the achievement of the coequal goals for the Delta set forth in the Delta Reform Act, sought solutions to develop water supply management practices to enhance flexibility and reliability of SWP water supplies while the Agency is also demonstrating its commitment to expand its water supply portfolio by investing in local water supplies; and
- D. The State and the Agency, in response to the Governor’s Water Resiliency Portfolio, wish to maintain and diversify water supplies while protecting and enhancing natural systems without changing the way in which the SWP operates; and
- E. The State and the Agency sought to create a programmatic solution through transfers or exchanges of SWP water supplies that encourages regional approaches among water users sharing watersheds and strengthening partnerships with local water agencies, irrigation districts, and other stakeholders; and
- F. The State and the Agency, in an effort to comply with the Open and Transparent Water Data Platform Act (Assembly Bill 1755), sought means to create greater transparency in water transfers and exchanges; and
- G. The State, the Agency and representatives of certain other SWP Contractors have negotiated and agreed upon a document (dated May 20, 2019), the subject of which is “ Draft Agreement in Principle for the SWP Water Supply Contract Amendment for Water Management” (the “Agreement in Principle”); and
- H. The Agreement in Principle describes that the SWP Water Supply Contract Amendment for Water Management “supplements and clarifies terms of the SWP water supply contract that will provide greater water management regarding transfers and exchanges of SWP water within the SWP service area”; the principles agreed to achieve this without relying upon increased SWP diversions or changing the way in which the SWP operates, and are consistent with all applicable contract and regulatory requirements; and

- I. The State, the Agency and those Contractors intending to be subject to the contract amendments contemplated by the Agreement in Principle subsequently prepared an amendment to their respective Contracts to implement the provisions of the Agreement in Principle, and such amendment was named the “SWP Water Supply Contract Amendment for Water Management”; and
- J. The State and the Agency desire to implement continued service through the contract and under the terms and conditions of this “SWP Water Supply Contract Amendment for Water Management”;

**NOW, THEREFORE, IT IS MUTUALLY AGREED** that the following changes and additions are hereby made to the Agency's water supply contract with that State:

### **AMENDED CONTRACT TEXT**

**ARTICLE 1 IS AMENDED TO ADD THE FOLLOWING DEFINITIONS, PROVIDED THAT IF THIS WATER MANAGEMENT AMENDMENT TAKES EFFECT BEFORE THE CONTRACT EXTENSION AMENDMENT TAKES EFFECT, THE ADDITIONS HEREIN SHALL CONTINUE IN EFFECT AFTER THE CONTRACT EXTENSION AMENDMENT TAKES EFFECT NOTWITHSTANDING THE CONTRACT EXTENSION AMENDMENT'S DELETION AND REPLACEMENT OF ARTICLE 1 IN ITS ENTIRETY:**

**1. Definitions**

- (au) **"Article 56 Carryover Water"** shall mean water that the Agency elects to store under Article 56 in project surface conservation facilities for delivery in a subsequent year or years.

**ARTICLES 21 and 56 ARE DELETED IN THEIR ENTIRETY AND REPLACED WITH THE FOLLOWING TEXT:**

**21. Interruptible Water Service**

**(a) Allocation of Interruptible Water**

Each year from water sources available to the project, the State shall make available and allocate interruptible water to contractors in accordance with the procedure in Article 18(a). Allocations of interruptible water in any one year may not be carried over for delivery in a subsequent year, nor shall the delivery of interruptible water in any year impact the Agency's approved deliveries of Annual Table A Amount or the Agency's allocation of water for the next year. Deliveries of interruptible water in excess of the Agency's Annual Table A Amount may be made if the deliveries do not adversely affect the State's delivery of Annual Table A Amount to other contractors or adversely affect project operations. Any amounts of water owed to the Agency as of the date of this amendment pursuant to former Article 12(d), any contract provisions or letter agreements relating to wet weather water, and any Article 14(b) balances accumulated prior to 1995, are canceled. The State shall hereafter use its best efforts, in a manner that causes no adverse impacts upon other contractors or the project, to avoid adverse economic impacts due to the Agency's inability to take water during wet weather.



**(b) Notice and Process for Obtaining Interruptible Water**

The State shall periodically prepare and publish a notice to contractors describing the availability of interruptible water under this Article. To obtain a supply of interruptible water, including a supply from a transfer of interruptible water, the Agency shall execute a further agreement with the State. The State will timely process such requests for scheduling the delivery of the interruptible water.

**(c) Rates**

For any interruptible water delivered pursuant to this Article, the Agency shall pay the State the same (including adjustments) for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the transportation of such water as if such interruptible water were Table A Amount water, as well as all incremental operation, maintenance, and replacement costs, and any other incremental costs, as determined by the State. The State shall not include any administrative or contract preparation charge. Incremental costs shall mean those nonpower costs which would not be incurred if interruptible water were not scheduled for or delivered to the Agency. Only those contractors not participating in the repayment of the capital costs of a reach shall be required to pay any use of facilities charge for the delivery of interruptible water through that reach.

**(d) Transfers of Interruptible Water**

- (1) Tulare Lake Basin Water Storage District, Empire West-Side Irrigation District, Oak Flat Water District, and County of Kings may transfer to other contractors a portion of interruptible water allocated to them under subdivision (a) when the State determines that interruptible water is available.
- (2) The State may approve the transfer of a portion of interruptible water allocated under subdivision (a) to contractors other than those listed in (d)(1) if the contractor acquiring the water can demonstrate a special need for the transfer of interruptible water.
- (3) The contractors participating in the transfer shall determine the cost compensation for the transfers of interruptible water.

The transfers of interruptible water shall be consistent with Articles 56(d) and 57.

**56. Use and Storage of Project Water Outside of Service Area and Article 56 Carryover Water**

**(a) State Consent to Use of Project Water Outside of Service Area**

Notwithstanding the provisions of Article 15(a), the State hereby consents to the Agency storing Project Water in a groundwater storage program, project surface conservation facilities and in nonproject surface storage facilities located outside its service area for later use by the Agency within its service area and to the Agency transferring or exchanging Project Water outside its service area consistent with agreements executed under this contract.

**(b) Groundwater Storage Programs**

The Agency shall cooperate with other contractors in the development and establishment of groundwater storage programs. The Agency may elect to store Project Water in a groundwater storage program outside its service area for later use within its service area. There shall be no limit on the amount of Project Water the Agency can store outside its service area during any year in a then existing and operational groundwater storage program.

**(1) Transfers of Annual Table A Amount stored in a groundwater storage program outside a contractor's service area.**

In accordance with applicable water rights law and the terms of this Article, the Agency may transfer any Annual Table A Amount stored on or after the effective date of the Water Management Amendment in a groundwater storage program outside its service area to another contractor for use in that contractor's service area. These transfers must comply with the requirements of Articles 56(c)(4)(i)-(v), (6) and (7), and Article 57. The Agency will include these transfers in its preliminary water delivery schedule required in Article 12(a).

**(2) Exchanges of any Annual Table A Amount stored in a groundwater storage program outside a contractor's service area.**

In accordance with applicable water rights law and the terms of this Article, the Agency may exchange any Annual Table A Amount stored on or after the effective date of the Water Management Amendment in a groundwater storage program outside its service area with another contractor for use in that contractor's service area. These exchanges must comply with the requirements in Article 56(c)(4)(i)-(v). The Agency shall include these exchanges in its preliminary water delivery schedule pursuant to Article 12(a).

**(c) Article 56 Carryover Water and Transfers or Exchanges of Article 56 Carryover Water**

- (1) In accordance with any applicable water rights laws, the Agency may elect to use Article 56 Carryover Water within its service area, or transfer or exchange Article 56 Carryover Water to another contractor for use in that contractor's service area in accordance with the provisions of subdivision (c)(4) of this Article. The Agency shall submit to the State a preliminary water delivery schedule on or before October 1 of each year pursuant to Article 12(a), the quantity of water it wishes to store as Article 56 Carryover Water in the next succeeding year, and the quantity of Article 56 Carryover Water it wishes to transfer or exchange with another contractor in the next succeeding year. The amount of Project Water the Agency can add to storage in project surface conservation facilities and in nonproject surface storage facilities located outside the Agency's service area each year shall be limited to the lesser of the percent of the Agency's Annual Table A Amount shown in column 2 or the acre-feet shown in column 3 of the following table, depending on the State's final Table A water supply allocation percentage as shown in column 1. For the purpose of determining the amount of Project Water the Agency can store, the final water supply allocation percentage shown in column 1 of the table below shall apply to the Agency. However, there shall be no limit to storage in nonproject facilities in a year in which the State's final water supply allocation percentage is one hundred percent. These limits shall not apply to water stored pursuant to Articles 12(e) and 14(b).

1. Final Water Supply Allocation Percentage	2. Maximum Percentage of Agency's Annual Table A Amount That Can Be Stored	3. Maximum Acre-Feet That Can Be Stored
50% or less	25%	100,000
51%	26%	104,000
52%	27%	108,000
53%	28%	112,000
54%	29%	116,000
55%	30%	120,000
56%	31%	124,000
57%	32%	128,000
58%	33%	132,000
59%	34%	136,000
60%	35%	140,000
61%	36%	144,000
62%	37%	148,000
63%	38%	152,000
64%	39%	156,000
65%	40%	160,000
66%	41%	164,000
67%	42%	168,000
68%	43%	172,000
69%	44%	176,000
70%	45%	180,000
71%	46%	184,000
72%	47%	188,000
73%	48%	192,000
74%	49%	196,000
75% or more	50%	200,000

- (2) Storage capacity in project surface conservation facilities at any time in excess of that needed for project operations shall be made available to requesting contractors for storage of project and Nonproject Water. If such storage requests exceed the available storage capacity, the available capacity shall be allocated among contractors requesting storage in proportion to their Annual Table A Amounts for that year. The Agency may store water in excess of its allocated share of capacity as long as capacity is available for such storage.
- (3) If the State determines that a reallocation of excess storage capacity is needed as a result of project operations or because of the exercise of a contractor's storage right, the available capacity shall be reallocated among contractors requesting storage in proportion to their respective Annual

Table A Amounts for that year. If such reallocation results in the need to displace water from the storage balance for any contractor or noncontractor, the water to be displaced shall be displaced in the following order of priority:

First, water, if any, stored for noncontractors;

Second, water stored for a contractor that previously was in excess of that contractor's allocation of storage capacity; and

Third, water stored for a contractor that previously was within that contractor's allocated storage capacity.

The State shall determine whether water stored in a project surface water conservation facility is subject to displacement and give as much notice as feasible of a potential displacement. If the Agency transfers or exchanges Article 56 Carryover Water pursuant to this subdivision to another contractor for storage in such facility, the State shall recalculate the amount of water that is subject to potential displacement for both contractors participating in the transfer or exchange. The State's recalculation shall be made pursuant to subdivision (4) of this Article.

**(4) Transfers or Exchanges of Article 56 Carryover Water**

The Agency may transfer or exchange its Article 56 Carryover Water as provided in this subdivision under a transfer or an exchange agreement with another contractor. Water stored pursuant to Articles 12(e) and 14(b) and Nonproject Water shall not be transferred or exchanged. Transfers or exchanges of Article 56 Carryover Water under this subdivision shall comply with subdivision (f) of this Article and Article 57 as applicable, which shall constitute the exclusive means to transfer or exchange Article 56 Carryover Water.

On or around January 15 of each year, the State shall determine the maximum amount of Article 56 Carryover Water as of January 1 that will be available for transfers or exchanges during that year. The State's determination shall be consistent with subdivisions (c)(1) and (c)(2) of this Article.

The State shall timely process requests for transfers or exchanges of Article 56 Carryover Water by participating contractors. After execution of the transfer or exchange agreement between the State and the contractors participating in the transfer or exchange, the State shall recalculate each contractor's storage amounts for the contractors participating in the transfer or exchange. The State's recalculation shall result in an increase by an amount of water within the storage amounts for the contractor receiving the water and a decrease by the same amount of water for the contractor transferring or exchanging water. The State's recalculation shall be based on the criteria set forth in the State's transfer or exchange agreement with the participating contractors. The State's calculations shall also apply when a contractor uses Article 56 Carryover Water to complete an exchange.

Transfers and exchanges of Article 56 Carryover Water shall meet all of the following criteria:

- (i) Transfers or exchanges of Article 56 Carryover Water are limited to a single-year. Project Water returned as part of an exchange under subdivision (c)(4) may be returned over multiple years.
- (ii) The Agency may transfer or exchange an amount up to fifty percent (50%) of its Article 56 Carryover Water to another contractor for use in that contractor's service area.
- (iii) Subject to approval of the State, the Agency may transfer or exchange an amount greater than 50% of its Article 56 Carryover Water to another contractor for use in that contractor's service area. The Agency seeking to transfer or exchange greater than 50% of its Article 56 Carryover Water shall submit a written request to the State for approval. The Agency making such a request shall demonstrate to the State how it will continue to meet its critical water needs in the current year of the transfer or exchange and in the following year.

- (iv) The contractor receiving the water transferred or exchanged under subdivisions (4)(i) or (ii) above shall confirm in writing to the State its need for the water that year and shall take delivery of the water transferred or exchanged in the same year.
  - (v) Subject to the approval of the State, the Agency may seek an exception to the requirements of subdivisions (4)(i), (ii), and (iii) above. The Agency seeking an exception shall submit a written request to the State demonstrating to the State the need for 1) using project surface conservation facilities as the transfer or exchange point for Article 56 Carryover Water if the receiving contractor cannot take delivery of the transfer or exchange water in that same year, 2) using project surface conservation facilities for the transfer or exchange of one contractor's Article 56 Carryover Water to another contractor to reduce the risk of the water being displaced, or 3) for some other need.
- (5) The restrictions on storage of Project Water outside the Agency's service area provided for in this subdivision (c), shall not apply to storage in any project off-stream storage facilities constructed south of the Delta after the date of the Monterey Amendment.
- (6) For any Project Water stored outside its service area pursuant to subdivisions (b) and (c), the Agency shall pay the State the same (including adjustments) for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the transportation of such water as the Agency pays for the transportation of Annual Table A Amount to the reach of the project transportation facility from which the water is delivered to storage. If Table A Amount is stored, the Delta Water Charge shall be charged only in the year of delivery to interim storage. For any stored water returned to a project transportation facility for final delivery to its service area, the Agency shall pay the State the same for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the transportation of such water calculated from the point of

return to the aqueduct to the turn-out in the Agency's service area. In addition, the Agency shall pay all incremental operation, maintenance, and replacement costs, and any other incremental costs, as determined by the State, which shall not include any administrative or contract preparation charge. Incremental costs shall mean those nonpower costs which would not be incurred if such water were scheduled for or delivered to the Agency's service area instead of to interim storage outside the service area. Only those contractors not participating in the repayment of a reach shall be required to pay a use of facilities charge for use of a reach for the delivery of water to, or return of water from, interim storage.

- (7) If the Agency elects to store Project Water in a nonproject facility within the service area of another contractor it shall execute a contract with that other contractor prior to storing such water which shall be in conformity with this Article and will include at least provisions concerning the point of delivery and the time and method for transporting such water.

**(d) Non-Permanent Water Transfers of Project Water**

Notwithstanding the provisions of Article 15(a), the State hereby consents to the Agency transferring Project Water outside its service area in accordance with the following:

- (1) The participating contractors shall determine the duration and compensation for all water transfers, including single-year transfers, Transfer Packages and multi-year transfers.
- (2) The duration of a multi-year transfer shall be determined by the participating contractors to the transfer, but the term of the transfer agreement shall not extend beyond the term of the Contract with the earliest term.
- (3) A Transfer Package shall be comprised of two or more water transfer agreements between the same contractors. The State shall consider each proposed water transfer within the package at the same time and shall apply the transfer criteria pursuant to Article 57 in the review and approval of each transfer. The State shall not consider a Transfer Package as an exchange.

**(e) Continuance of Article 12(e) Carry-over Provisions**



The provisions of this Article are in addition to the provisions of Article 12(e), and nothing in this Article shall be construed to modify or amend the provisions of Article 12(e). Any contractor electing to transfer or exchange Project Water during any year in accordance with the provisions of subdivision (c) of this Article, shall not be precluded from using the provisions of Article 12(e) for carrying over water from the last three months of that year into the first three months of the succeeding year.

**(f) Bona Fide Exchanges Permitted**

Notwithstanding the provisions of Article 15(a), the State hereby consents to the Agency exchanging Project Water outside its service area consistent with this Article. Nothing in this Article shall prevent the Agency from entering into bona fide exchanges of Project Water for use outside the Agency's service area with other parties for Project Water or Nonproject Water if the State consents to the use of the Project Water outside the Agency's service area. Also, nothing in this Article shall prevent the Agency from continuing those exchange or sale arrangements entered into prior to September 1, 1995. Nothing in this Article shall prevent the Agency from continuing those exchange or sale arrangements entered into prior to the effective date of this Amendment which had previously received any required State approvals. The State recognizes that the hydrology in any given year is an important factor in exchanges. A "bona fide exchange" shall mean an exchange of water involving the Agency and another party where the primary consideration for one party furnishing water to another party is the return of a substantially similar amount of water, after giving due consideration to the hydrology, the length of time during which the water will be returned, and reasonable payment for costs incurred. In addition, the State shall consider reasonable deductions based on expected storage or transportation losses that may be made from water delivered. The State may also consider any other nonfinancial conditions of the return. A "bona fide exchange" shall not involve a significant payment unrelated to costs incurred in effectuating the exchange. The State, in consultation with the contractors, shall have authority to determine whether a proposed exchange of water constitutes a "bona fide exchange" within the meaning of this paragraph and not a disguised sale.

**(g) Exchanges of Project Water**

Exchanges of Project Water shall be consistent with Article 57. In addition, the State shall apply the following criteria to its review of each exchange of Project Water as set forth below:

(1) **Exchange Ratio**

Exchange ratio shall mean the amount of water delivered from a contractor's project supply in a year to another contractor compared to the amount of water returned to the first contractor in a subsequent year by the other contractor. All exchanges shall be subject to the applicable exchange ratio in this Article as determined by the allocation of available supply for the Annual Table A Amount at the time the exchange transaction between the contractors is executed.

- (a) For allocations greater than or equal to 50%, the exchange ratio shall be no greater than 2 to 1.
- (b) For allocations greater than 25% and less than 50%, the exchange ratio shall be no greater than 3 to 1.
- (c) For allocations greater than 15% and less than or equal to 25%, the exchange ratio shall be no greater than 4 to 1.
- (d) For allocations less than or equal to 15%, the exchange ratio shall be no greater than 5 to 1.

(2) **Cost Compensation**

The State shall determine the maximum cost compensation calculation using the following formula:

The numerator shall be the exchanging contractor's conservation minimum and capital and transportation minimum and capital charges, including capital surcharges. DWR will set the denominator using the State Water Project allocation which incorporates the May 1 monthly Bulletin 120 runoff forecast.

If the Agency submits a request for approval of an exchange prior to May 1, the State shall provide timely approval with the obligation of the contractors to meet the requirement of the maximum compensation. If the maximum compensation is exceeded because the agreement between the

contractors is executed prior to the State Water Project allocation as defined in (c)(2) above, the contractors will revisit the agreement between the two contractors and make any necessary adjustments to the compensation. If the contractors make any adjustments to the compensation, they shall notify the State.

**(3) Period During Which the Water May Be Returned:**

The period for the water to be returned shall not be greater than 10 years and shall not go beyond the expiration date of this Contract. If the return of the exchange water cannot be completed within 10 years, the State may approve a request for an extension of time.

**(h) Other Transfers**

Nothing in this Article shall modify or amend the provisions of Articles 15(a), 18(a) or Article 41, except as expressly provided for in subdivisions (c) and (d) of this Article and in subdivision (d) of Article 21.

## NEW CONTRACT ARTICLES

### ARTICLE 57 IS ADDED TO THE CONTRACT AS A NEW ARTICLE AS FOLLOWS:

#### 57. Provisions Applicable to Both Transfers and Exchanges of Project Water

- (a) Nothing in this Article modifies or limits Article 18 (a).
- (b) Transfers and exchanges shall not have the protection of Article 14(b).
- (b) The Agency may be both a buyer and seller in the same year and enter into multiple transfers and exchanges within the same year.
- (d) Subject to the State's review and approval, all transfers and exchanges shall satisfy the following criteria:
  - (1) Transfers and exchanges shall comply with all applicable laws and regulations.
  - (2) Transfers and exchanges shall not impact the financial integrity of the State Water Project, Transfers and exchange agreements shall include provisions to cover all costs to the State for the movement of water such as power costs and use of facility charge.
  - (3) Transfers and exchanges shall be transparent, including compliance with subdivisions (g) and (h) of this Article.
  - (4) Transfers and exchanges shall not harm other contractors not participating in the transfer or exchange.
  - (5) Transfers and exchanges shall not create significant adverse impacts to the service area of each contractor participating in the transfer or exchange.
  - (6) Transfers and exchanges shall not adversely impact State Water Project operations.
- (e) The Agency may petition the State and the State shall have discretion to approve an exception to the criteria set forth in subdivision (d) in the following cases:
  - (1) When a transfer or an exchange does not meet the criteria, but the Agency has determined that there is a compelling need to proceed with the transfer or exchange.

- (2) When the Agency has received water in a transfer or an exchange and cannot take all of the water identified in the transaction in the same year, the Agency may request to store its water consistent with Article 56(c), including in San Luis Reservoir.
- (f) The State will timely process such requests for scheduling the delivery of the transferred or exchanged water. Contractors participating in a transfer or an exchange shall submit the request in a timely manner.
- (g) The Agency shall, for each transfer or exchange it participates in, confirm to the State in a resolution or other appropriate document approving the transfer or exchange, including use of Article 56(c) stored water, that:
- (1) The Agency has complied with all applicable laws.
  - (2) The Agency has provided any required notices to public agencies and the public.
  - (3) The Agency has provided the relevant terms to all contractors and to the Water Transfers Committee of the State Water Contractors Association.
  - (4) The Agency is informed and believes that the transfer or exchange will not harm other contractors.
  - (5) The Agency is informed and believes that the transfer or exchange will not adversely impact State Water Project operations.
  - (6) The Agency is informed and believes that the transfer or exchange will not affect its ability to make all payments, including payments when due under its Contract for its share of the financing costs of the State's Central Valley Project Revenue Bonds.
  - (7) The Agency has considered the potential impacts of the transfer or exchange within its service area.
- (h) **Dispute Resolution Process Prior to Executing an Agreement**

The State and the contractors shall comply with the following process to resolve disputes if a contractor that is not participating in the transfer or exchange claims that the proposed transfer and/or exchange has a significant adverse impact.

- (1) Any claim to a significant adverse impact may only be made after the Agency has submitted the relevant terms pursuant to Article

57(g)(3) and before the State approves a transfer or an exchange agreement.

- (2) In the event that any dispute cannot be resolved among the contractors, the State will convene a group including the Department's Chief of the State Water Project Analysis Office, the Department's Chief Counsel and the Department's Chief of the Division of Operations or their designees and the contractors involved. The contractor's representatives shall be chosen by each contractor. Any contractor claiming a significant adverse impact must submit written documentation to support this claim and identify a proposed solution. This documentation must be provided 2 weeks in advance of a meeting of the group that includes the representatives identified in this paragraph.
- (3) If this group cannot resolve the dispute, the issue will be taken to the Director of the Department of Water Resources and that decision will be final.

## **WATER MANAGEMENT AMENDMENT IMPLEMENTING AND ADMINISTRATIVE PROVISIONS**

**IT IS FURTHER MUTUALLY AGREED** that the following provisions, which shall not be part of the Water Supply Contract text, shall be a part of this Amendment and be binding on the Parties.

### **1. EFFECTIVE DATE OF WATER MANAGEMENT AMENDMENT**

- (a) The Water Management Amendment shall take effect (“Water Management Amendment effective date”) on the last day of the calendar month in which the State and 24 or more contractors have executed the Water Management Amendment, unless a final judgment by a court of competent jurisdiction has been entered that the Water Management Amendment is invalid or unenforceable or a final order has been entered that enjoins the implementation of the Water Management Amendment.
- (b) If any part of the Water Management Amendment of any contractor is determined by a court of competent jurisdiction in a final judgment or order to be invalid or unenforceable, the Water Management Amendments of all contractors shall be of no force and effect unless the State and 24 or more contractors agree any the remaining provisions of the contract may remain in full force and effect.
- (c) If 24 or more contractors have not executed the Water Management Amendment by February 28, 2021 then within 30 days the State, after consultation with the contractors that have executed the amendment, shall make a determination whether to waive the requirement of subdivision (a) of this effective date provision. The State shall promptly notify all contractors of the State’s determination. If the State determines, pursuant to this Article to allow the Water Management Amendment to take effect, it shall take effect only as to those consenting contractors.
- (d) If any contractor has not executed the Water Management Amendment within sixty (60) days after its effective date pursuant to subdivisions (a) through (c) of this effective date provision, this Amendment shall not take effect as to such contractor unless the contractor and the State, in its discretion, thereafter execute such contractor’s Water Management Amendment, in which case the Water Management Amendment effective date for purposes of that contractor’s Amendment shall be as agreed upon by the State and contractor, and shall replace the effective date identified in subdivision (a) for that contractor.

**2. ADMINISTRATION OF CONTRACTS WITHOUT WATER MANAGEMENT AMENDMENT**

The State shall administer the water supply contracts of any contractors that do not execute the Water Management Amendment in a manner that is consistent with the contractual rights of such contractors. These contractors' rights are not anticipated to be affected adversely or benefited by the Water Management Amendments.

**3. OTHER CONTRACT PROVISIONS**

Except as amended by this Amendment, all provisions of the contract shall be and remain the same and in full force and effect, provided, however, that any reference to the definition of a term in Article 1, shall be deemed to be a reference to the definition of that term, notwithstanding that the definition has been re-lettered within Article 1. In preparing a consolidated contract, the parties agree to update all such references to reflect the definitions' lettering within Article 1.

**4. DocuSign**

The Parties agree to accept electronic signatures generated using DocuSign as original signatures.



IN WITNESS WHEREOF, the Parties hereto have executed this Amendment on the date first above written.

Approved as to Legal Form  
and Sufficiency:

STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

\_\_\_\_\_  
Chief Counsel  
Department of Water Resources

\_\_\_\_\_  
Director

\_\_\_\_\_  
Date

Approved as to Form:

SAN GORGONIO PASS WATER  
AGENCY

\_\_\_\_\_  
General Counsel  
San Gorgonio Pass Water Agency

\_\_\_\_\_  
General Manager

\_\_\_\_\_  
Date

# THE STATE WATER PROJECT: Water Management Tools Contract Amendment A Necessary Water Management Solution for California

The State Water Project (SWP) is a complex water system that drives California’s quality of life and economic vitality. For more than a decade, public water agencies that receive water allocations from the California Department of Water Resources (DWR) have acknowledged the need to amend the contracts that govern how the system is managed — recognizing there are opportunities to modernize and streamline operations to more efficiently use this important public trust resource, and to better support local water supply management such as groundwater banking.

The water management tools contract amendment will ensure greater supply reliability and flexibility among the SWP public water agencies to address climate realities threatening our essential SWP supply, and help SWP contractors better manage their SWP supplies in the context of their local water portfolios, particularly in times of drought.

## About the Amendment

- Does not include construction of new facilities
- Relates only to how SWP supplies are managed with current infrastructure
- Does not change the contract amounts for contractors
- Will be implemented in compliance with environmental regulations



## SWP Quick Facts

- Planned in the 1950s. Built in the 60's
- Operated by DWR
- Spans 700 miles
- Provides fresh, affordable water to 27 million people & 750,000 acres of farmland
- Fuels the economy & various industries statewide
- Last update to water management rules governing SWP operations was in 1994

## Ensuring Greater Water Supply Reliability Amidst Climate Change and Changing Water Supply Portfolios

Climate change poses a serious threat to the reliability of California’s water supplies. As California faces the increasing impacts of climate change — from heavy winter floods to periods of extreme drought — it is more important now than ever that public water agencies are able to collaborate amongst themselves and with DWR to stabilize and successfully manage our complex water system. With greater flexibility to move and store SWP supplies, public water agencies are better able to manage their water portfolios, including local supply investments.

The water management tools contract amendment:

Clarifies the process for water transfers, exchanges, and storage among State Water Project public water agencies



Enables public water agencies to more effectively and efficiently manage supplies through the increasing impacts of climate change

# A TRANSPARENT PUBLIC PROCESS

DWR and public water agencies have engaged in a public process to amend the contracts governing how the SWP operates. Through public negotiation sessions, stakeholders have had the opportunity to provide input and assist in crafting a solution that ensures greater water supply reliability and flexibility amidst climate change.

## ■ February 2018

DWR and public water agencies held 15 negotiation meetings beginning in February 2018.

## ■ June 2018

Agreement in Principle (AIP) was reached between DWR and SWP contractors that included water management tools and California Water Fix cost allocation.

## ■ October 2018

DWR released draft EIR for public review and comment.

## ■ May 2019

DWR and public water agencies revised the AIP to remove the California Water Fix cost allocation component. No changes were made to the water management tools.

## ■ February – June 2020

DWR released partially recirculated draft EIR for public review and comment that reflects removal of the AIP provisions regarding cost allocation for California Water Fix.

## ■ August 2020

DWR released final EIR for public review and comment.

## ■ Current

Public water agencies that receive water through the SWP are voting to adopt the water management tools contract amendment.







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# APPROVAL OF WATER MANAGEMENT TOOLS CONTRACT AMENDMENT

BOARD OF DIRECTORS OCTOBER 19, 2020

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## GOAL OF CONTRACT CHANGES

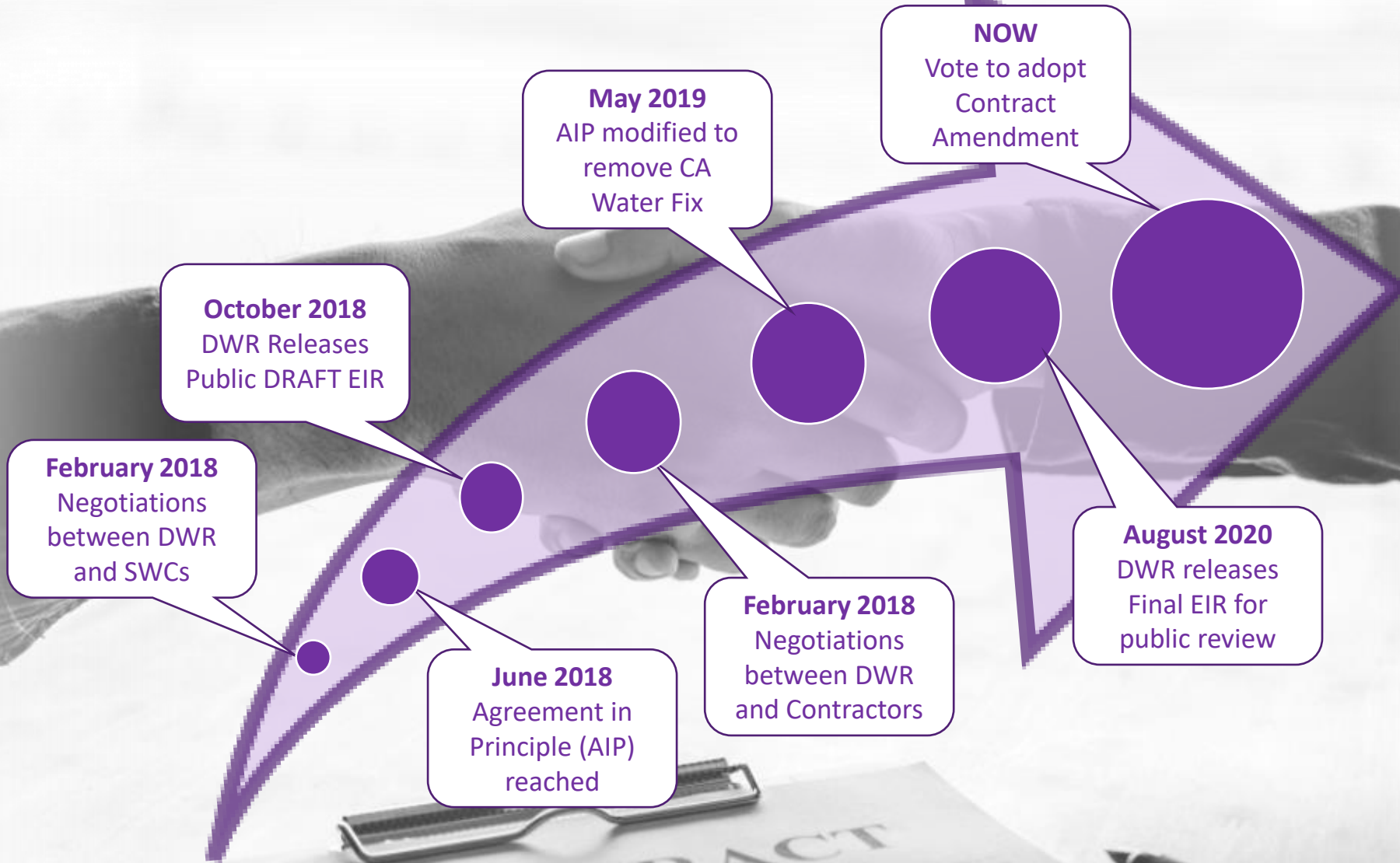
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Inability for Contractors develop tailored solutions resulted in project inefficiencies

Years of “non-precedent setting” exceptions resulted in contract confusion

Environmental and climate uncertainty mandated a local and State response to work better... as a region... as a state... ***as a system***

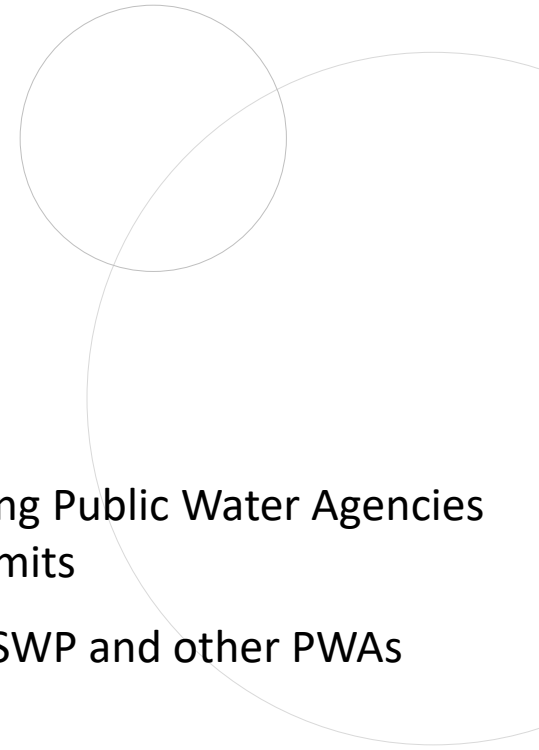
Flexibility and business certainty are necessary to address steep state supply challenges ahead



Over 2 years of effort resulting in this contract amendment



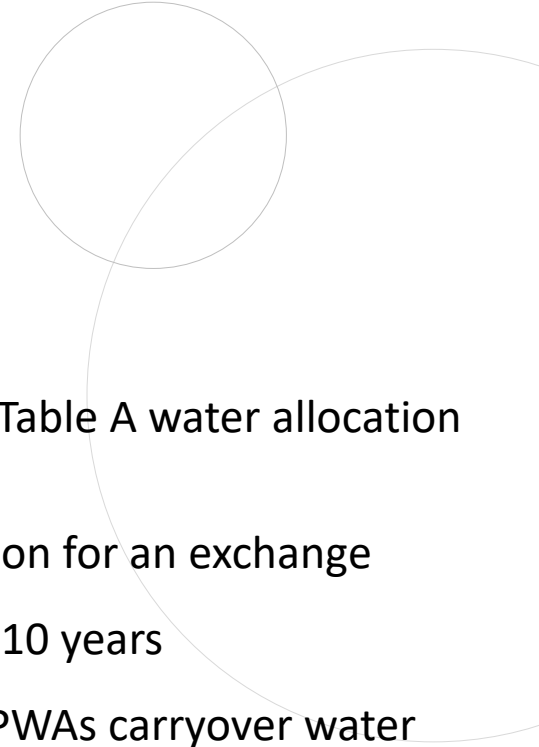




# TRANSFERS

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- Removes the Turnback Pool
- Allows non-permanent transfers among Public Water Agencies (PWAs) and provides compensation limits
- Requires that transfers not harm the SWP and other PWAs
- Requires DWR review and approval
- Allows PWAs to transfer Article 21 (excess wet year water) water in special circumstances
- Allows PWAs to transfer up to 50% of their carryover water
- Adds provisions to ensure transparency
- Provides a dispute resolution process for non-participating PWAs who feel they may be adversely impacted by a transfer.



## EXCHANGES

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- Establishes exchange ratios based on Table A water allocation up to a maximum of 5:1
- Establishes the maximum compensation for an exchange
- Allows multiple year exchanges up to 10 years
- Allows the exchange of up to 50% of PWAs carryover water
- Requires that exchanges not harm the SWP and other PWAs
- Adds provisions to ensure transparency
- Provides a dispute resolution process for non-participating PWAs who feel they may be adversely impacted by a transfer

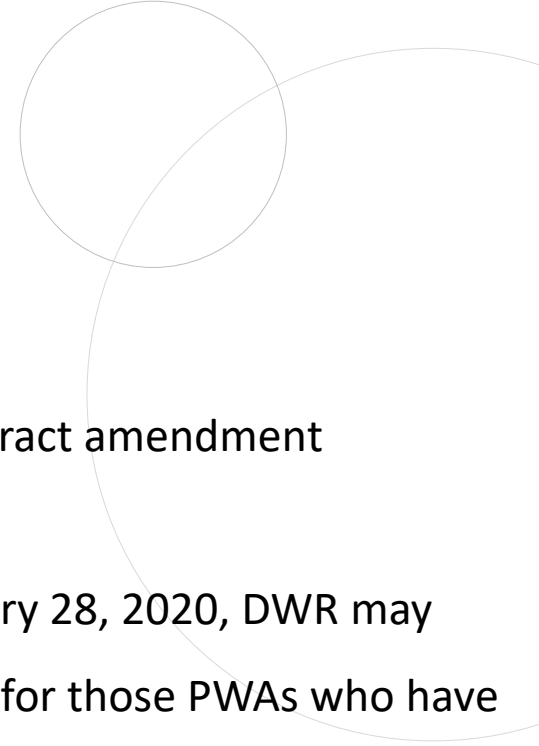




## OTHER PROVISIONS

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- Allows for groundwater stored outside a PWA's services area to be transferred or exchanged without first returning to the PWA's service area
- Allows up to 50% of certain PWA carryover stored in San Luis Reservoir to be transferred or exchanged
- Adds provisions to provide transparency
- Adds a dispute resolution process if a PWA claims a transfer or exchange will cause them harm



## EFFECTIVE DATE

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- Effective when 24 PWAs sign the contract amendment
- If 24 PWAs have not signed by February 28, 2020, DWR may allow the amendment to be effective for those PWAs who have signed



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# RECOMMENDATION

Accept amendment to the Agency's long term water supply contract with the Department of Water Resources regarding enhanced water management tools and adopt CEQA Findings.

