

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

**DATE:** September 26, 2022

**TO:** Board of Directors

**FROM:** Lance Eckhart, General Manager

**SUBJECT: ADOPT RESOLUTION 2022-24 APPROVING AN AGREEMENT FOR THE TRANSFER AND EXCHANGE OF STATE WATER PROJECT TABLE A SUPPLY FROM THE AGENCY TO THE CENTRAL COAST WATER AUTHORITY AND MAKING FINDINGS REQUIRED UNDER THE AGENCY'S STATE WATER PROJECT CONTRACT**

## **RECOMMENDATION**

It is recommended that the Board of Directors adopt Resolution 2022-24 which approves the Transfer And Exchange Agreement ("Agreement") with the Central Coast Water Authority ("CCWA") and makes findings as required by the Department of Water Resources ("DWR") under the Agency's State Water Project ("SWP") Contract.

## **BACKGROUND**

CCWA is a joint powers agency, the members of which are individual water purveyors located in the County of Santa Barbara. CCWA contracts with its member agencies for the delivery of SWP Water to CCWA's member agencies.

On March 28, 2022, Governor Newsom issued Executive Order N-7-22 in response to ongoing drought conditions in the state. Said Executive Order provides, among other things, that local water suppliers shall move to Level 2 of their Water Shortage Contingency Plans. In addition, on August 11, 2022, Governor Newsom issued a document called "California's Water Supply Strategy, Adapting to a Hotter, Drier Future" which calls for investing in new sources of water supply, accelerating projects and modernizing how the state manages water.

The Agency has SWP water available to it in 2022 which is available for a potential transfer and exchange transaction. Agency Staff has entered into discussions with CCWA Staff since CCWA desires to receive a transfer of up to 400 AF of SWP supply in 2022. In order to work collaboratively to provide for the efficient use of water supplies in areas of the state where said supplies are needed, as referenced in the Governor's actions described above, Agency Staff recommends that the Board adopt the proposed Resolution in order to approve the Agreement.

## **ANALYSIS**

The Agreement is attached as Exhibit “A” to the enclosed Resolution and provides, among other things, for the following:

1. The Agency will transfer up to 400 acre-feet (“AF”) of water to CCWA prior to December 31, 2022.
2. For each AF of water delivered to CCWA in 2022, CCWA will return two AF (800 AF) of water to the Agency by December 31, 2032 (i.e., “unbalanced exchange”). Unless otherwise agreed by the parties, CCWA will return a minimum quantity of water that is equivalent to 10% of the quantity of water delivered to CCWA for each year until all water is returned. Upon mutual consent of the parties in any year, the water may be returned at a rate greater than 10%. If any water is still due and owing as of December 31, 2032, then the term of the Agreement may be extended for two additional years by either party in order to complete said deliveries. Unbalanced return water can be referenced in the Agency’s planning documents, become part of the regional portfolio, be used to pay down existing water debt from previous exchanges and be used locally.
3. The transfer and exchange to be made under the Agreement will be made in the San Luis Reservoir which shall be deemed the point of delivery.
4. The transfer and exchange are also subject to the terms and conditions of the SWP Contract, as amended by the Water Management Amendment, which requires approval from DWR. The proposed Resolution includes the findings and confirmations required by DWR in order to comply with Article 57(g) of the Agency’s SWP Contract.
5. For each AF of water delivered to the point of delivery, CCWA will pay \$1500 to the Agency (i.e., “transfer”). CCWA will submit a one-time payment to the Agency in the amount of \$600,000.00, which payment assumes that 400 AF of water will be delivered to CCWA on or before December 31, 2022. In the event that less than 400 AF of water is delivered to CCWA on or before December 31, 2022, within 30 days of the delivery of any water, the Agency will refund to CCWA any overpayment for water not delivered.

## **ENVIRONMENTAL**

In accordance with the California Environmental Quality Act (“CEQA”) and State CEQA Guidelines, the transfer and exchange of Table A water under the Agreement is exempt from review under CEQA pursuant to Water Code Section 1729 and State CEQA Guidelines Section 15282(u), which exempt temporary changes in the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights as set forth in Water Code section 1725 et seq.

Additionally, the transfer and exchange are categorically exempt from environmental review under CEQA pursuant to State CEQA Guidelines section 15301 (Class 1 – Existing Facilities), which exempts from further CEQA review the operation of existing public structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

Finally, the transfer and exchange are exempt pursuant to State CEQA Guidelines section 15061(b)(3) which exempts those activities for which it can be seen with certainty that there is no potential to result in significant environmental effects.

For all of the foregoing reasons, the transfer and exchange under the Agreement are exempt from CEQA. A copy of the CEQA Notice of Exemption is attached.

### **FISCAL IMPACT**

\$600,000 of revenue from the transfer/exchange of water will be generated by the transfer element of the transaction and will be deposited in the General Fund. It is staff's recommendation that this revenue be allocated to a special fund to purchase supplemental water supplies to increase long-term water reliability (e.g., spot market water, DWR's Dry Year Program, Article 21 water, or other available sources).

### **ACTION**

Adopt Resolution 2022-24 which approves the Transfer And Exchange Agreement with the Central Coast Water Authority and makes findings as required by the Department of Water Resources under the Agency's State Water Project Contract.

### **ATTACHMENTS**

- Draft Resolution 2022-24
- Transfer And Exchange Agreement (Exhibit "A" to the Resolution)
- CEQA Notice of Exemption

## **RESOLUTION NO. 2022-24**

### **A RESOLUTION OF THE SAN GORGONIO PASS WATER AGENCY APPROVING AN AGREEMENT FOR THE TRANSFER AND EXCHANGE OF STATE WATER PROJECT TABLE A WATER AND MAKING FINDINGS REQUIRED UNDER ARTICLE 57(g) OF THE STATE WATER PROJECT CONTRACT**

WHEREAS, the San Gorgonio Pass Water Agency (“Agency”) is a wholesale water agency formed under the San Gorgonio Pass Water Agency Law set forth in Water Code Appendix 101 (“Act”); and

WHEREAS, the Agency entered into a contract with the California Department of Water Resources (“DWR”) in 1962 for a Table A amount of water capacity in the California State Water Project (“SWP”) which is currently 17,300 acre feet (“AF”) per year to bring supplemental water to the Agency’s service area; and

WHEREAS, sections of the Act provide the Agency with a number of powers including, but not limited to, the following: to acquire water supplies for the benefit of the Agency (Section 15(e)); to sell or otherwise dispose of surplus water (Section 15(g)); to make contracts to do all acts necessary for the full exercise of its powers (Section 15(o)); and to acquire, control, distribute, store, and spread water for beneficial uses of the Agency (Section 15(q)); and

WHEREAS, on March 28, 2022, Governor Newsom issued Executive Order N-7-22 in response to ongoing drought conditions in the state. Said Executive Order provides, among other things, that local water suppliers shall move to Level 2 of their Water Shortage Contingency Plans. In addition, on August 11, 2022, Governor Newsom issued a strategy document called “California’s Water Supply Strategy, Adapting to a Hotter, Drier Future” which calls for investing in new sources of water supply, accelerating projects and modernizing how the state manages water; and

WHEREAS, the Agency has water available to it in 2022 and has entered into discussions with the Central Coast Water Authority (“CCWA”) which desires to receive a transfer of up to 400 AF of the Agency’s SWP supply in 2022 in exchange for CCWA returning to the Agency two AF for each AF of water delivered to CCWA. The terms and conditions for this proposed transfer and exchange are set forth in that certain Transfer And Exchange Agreement (“Agreement”) attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, in order to work collaboratively to provide for the efficient use of water supplies in areas of the state where said supplies are needed, as referenced in the Governor’s actions set forth above, the Agency Board of Directors (“Board”) desires to adopt this Resolution in order to authorize the General Manager to execute the Agreement and to take any and all actions to implement the transfer and exchange contemplated under the Agreement; and

WHEREAS, the transfer and exchange under the Agreement is also subject to the terms and conditions of the SWP Contracts of the Agency and CCWA, as amended by the Water Management Amendment, which requires approval from the California Department of

Water Resources (“DWR”). As a result, the Board desires to adopt this Resolution to also comply with Article 57(g) of the Agency’s SWP Contract by making certain findings as set forth below; and

WHEREAS, in accordance with the California Environmental Quality Act (“CEQA”) and State CEQA Guidelines, Agency Staff has determined that the transfer and exchange of Table A water under the Agreement is exempt from review under CEQA pursuant to Water Code Section 1729 and State CEQA Guidelines Section 15282(u), which exempt temporary changes in the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights as set forth in Water Code section 1725 et seq. Additionally, the transfer and exchange are categorically exempt from environmental review under CEQA pursuant to State CEQA Guidelines section 15301 (Class 1 – Existing Facilities), which exempts from further CEQA review the operation of existing public structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. Finally, the transfer and exchange are exempt pursuant to State CEQA Guidelines section 15061(b)(3) which exempts those activities for which it can be seen with certainty that there is no potential to result in significant environmental effects. As a result, it is within the authority of the General Manager to file the applicable CEQA Notice Of Exemption.

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

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

2. Approval Of Agreement The Board hereby approves entering into the Agreement by and between the Agency and CCWA.

3. Authority Of The General Manager The Board hereby authorizes the General Manager to execute the Agreement and to take any and all actions necessary to implement the transfer and exchange under the Agreement including, but not limited to, development and execution of any agreements and documentation required under the Agreement and/or required by DWR and/or required for CEQA compliance as described in the Recitals. The General Manager is also hereby authorized and directed to take all actions necessary to effectuate and implement this Resolution.

4. Compliance With SWP Contract As may be required under the Agency’s SWP Contract or as may be required by DWR, the Board makes the following findings in accordance with Article 57(g) of the Agency’s SWP contract:

(a) The Agency has complied with all applicable law;

(b) The Agency has provided any required notices to public agencies and the public;

(c) The relevant terms of the Agreement have been provided by the General Manager to all SWP contractors and to the Water Transfers Committee of the State Water Contractors Association. As required by DWR under the SWP Contract, a copy of the Agreement will be submitted to the General Manager of the State Water Contractors

Association and requested that said General Manager deliver the Agreement to all other State Water Contractors and to the Chair of the Water Transfers Committee of the State Water Contractors Association;

(d) The Agency is informed and believes that the transfer and exchange under the Agreement will not harm other SWP contractors;

(e) The Agency is informed and believes that the transfer and exchange under the Agreement will not adversely impact SWP operations;

(f) The Agency is informed and believes that the transfer and exchange under the Agreement will not affect the Agency's ability to make all payments, including payments when due under its SWP contract for its share of the financing costs of the State's Central Valley Project Revenue Bonds; and

(g) The Agency has considered the potential impacts of the transfer and exchange under the Agreement within its service area and has determined that the Agreement would be beneficial.

5. Approval Of Transfer Under State Water Project Contract Procedures Based on the findings set forth herein, the Board approves the Agreement as said approval is required to be provided to DWR under the SWP Contract procedures.

6. Authorization For General Manager The Board authorizes the General Manager, or his designee, to negotiate and make such non-substantive amendments to the Agreement as may be required to obtain DWR's approval.

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

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

**ADOPTED AND APPROVED** this 26th day of September, 2022.

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Larry Smith  
President, Board of Directors  
San Geronio Pass Water Agency

ATTEST:

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Lance Eckhart  
Secretary, Board of Directors  
San Geronio Pass Water Agency

EXHIBIT "A"

Transfer And Exchange Agreement



## **TRANSFER AND EXCHANGE AGREEMENT**

This Transfer and Exchange Agreement (“Agreement”) is made and entered into as of September \_\_, 2022, by and between the SAN GORGONIO PASS WATER AGENCY (“SGPWA”) and the CENTRAL COAST WATER AUTHORITY (“CCWA”). SGPWA and CCWA are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

### **RECITALS**

A. SGPWA and CCWA are regional water agencies that provide water on a wholesale basis to retail water providers and other public agencies within their respective service areas.

B. SGPWA has a long-term water supply contract (“Water Supply Contract”) with the Department of Water Resources of the State of California (“DWR”) that permits SGPWA to receive water supply, storage and conveyance services from the State Water Project (“SWP”). Pursuant to its Water Supply Contract, SGPWA has a contractual right to the delivery of 17,300 acre-feet (“AF”) per year (“AFY”) of water from the SWP.

C. CCWA is a joint powers agency, the members of which are individual water purveyors located in the County of Santa Barbara. Pursuant to the Transfer of Financial Responsibility Agreement, the Santa Barbara County Flood Control and Water Conservation District (“SBCFCWCD”) transferred to CCWA, and CCWA accepted and assumed, all rights and obligations to the Water Supply Contract between SBCFCWCD and DWR that provides for the delivery of up to 45,486 AF from the SWP to Santa Barbara County. CCWA contracts with its member agencies and other water users (collectively, “CCWA Participants”) for the delivery of SWP to the CCWA Participants.

D. On March 28, 2022, Governor Newsom issued Executive Order N-7-22 in response to ongoing drought conditions in the state. Said Executive Order provides, among other things, that local water suppliers shall move to Level 2 of their Water Shortage Contingency Plans, which require locally-appropriate actions that will conserve water across all sectors. In addition, on August 11, 2022, Governor Newsom issued a strategy document called “California’s Water Supply Strategy, Adapting to a Hotter, Drier Future” which calls for investing in new sources of water supply, accelerating projects and modernizing how the state manages water.

E. As of the date of this Agreement, DWR has approved an allocation of water from the SWP to CCWA of 5% of the “Table A Amount,” as that term is defined by the State Water Contract, for calendar year 2022. CCWA’s allocation for 2022 is not sufficient to satisfy the projected demand of CCWA’s Participants for imported water in 2022. Accordingly, CCWA, on behalf of one of its Participants, the Carpinteria Valley Water District, would like to acquire additional water supplies in 2022.

F. SGPWA has water available to it in 2022 and has agreed to transfer up to 400 AF of its SWP supply (“Transfer Water”) to CCWA in 2022, subject to the terms and conditions hereinafter set forth herein (“Transfer”). In exchange, CCWA has agreed to return two AF for each AF of Transfer Water delivered to CCWA in 2022 (or up to 800 AF) (“Exchange Water”)

to SGPWA prior to December 31, 2032, subject to the terms and conditions hereinafter set forth herein (“Exchange”).

G. The Parties’ respective Water Supply Contracts allow for the transfer and exchange of SWP water under certain conditions and subject to DWR approval.

H. The Parties wish to enter into this Agreement to address water supply needs for this current year and to set forth the terms and conditions for the return of said water supply. The Parties desire to work collaboratively to provide for the efficient use of water supplies, in areas of the state where said supplies are needed, in light of ongoing drought conditions.

## **AGREEMENT**

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

1. Term. This Agreement shall become effective upon execution by all Parties (the “Effective Date”) and shall terminate on December 31, 2032, or upon satisfaction of the Parties’ respective obligations pursuant to this Agreement, whichever is sooner.

2. Transfer of SGPWA Water in 2022. SGPWA shall transfer up to 400 AF of Transfer Water to CCWA at the Point of Delivery, as defined in Paragraph 4, prior to December 31, 2022.

3. CCWA’s Return of Exchange Water

(a) Amount and Source of Exchange Water. For each AF of Transfer Water delivered to CCWA in 2022, CCWA shall return two AF of Exchange Water to SGPWA at the Point of Delivery by December 31, 2032. The source of the Exchange Water shall be determined in CCWA’s sole discretion.

(b) Meet and Confer as to Scheduling and Sources. On or before February 1 of each year during the Term, the Parties will meet and confer to determine the schedule for return of Exchange Water and the sources of the Exchange Water. It is acknowledged that the intent of the Parties is to work together to return the outstanding Exchange Water as quickly as practicable. The following shall be taken into account while making decisions on scheduling and sources:

(i) Unless otherwise agreed by the Parties, as provided in this Paragraph 3, CCWA will return a minimum quantity of Exchange Water that is equivalent to 10 percent of the quantity of Transfer Water delivered to CCWA (or up to 80 AFY) for each year during the term of this Agreement until all Exchange Water is returned.

(ii) Upon mutual consent of the Parties in any year during the Term, the Exchange Water may be returned at a rate greater than 10 percent.

(iii) As may be determined in SGPWA’s reasonable discretion, SGPWA’s obligation to accept delivery of Exchange Water may be suspended in any year when SGPWA has limited space to store water in the San Luis Reservoir or during very high SWP water allocation years.

(iv) As may be determined in CCWA's reasonable discretion, CCWA's obligation to return Exchange Water may be suspended during a period when DWR's allocation is less than 10%.

(c) Potential Reduction of Exchange Water. Upon mutual consent, the Parties may agree to reduce the balance of the Exchange Water through a future water exchange or financial arrangement that is acceptable in each Party's sole discretion.

(d) Balance of Exchange Water as of December 31, 2032. If any Exchange Water is still due and owing as of December 31, 2032, then the Term may be extended for two additional years by either Party upon the prior written notice to the other Party in order to complete said deliveries during that extended term.

#### 4. Point of Delivery

(a) Both Parties have access to water supplies and conveyance capacity in the California Aqueduct and San Luis Reservoir facilities which are part of the SWP. For accounting and operational purposes, it is hereby acknowledged that the Transfer and Exchange to be made under this Agreement will be made in the San Luis Reservoir which shall be deemed to be the Point of Delivery.

(b) Neither Party is making any representation or warranty concerning the quality of the water transferred and exchanged under this Agreement at the Point of Delivery.

#### 5. Cooperation

(a) The Parties will take the necessary actions to fulfill their respective obligations, including but not limited to coordinating with DWR to obtain DWR's approval and to facilitate the delivery of the Transfer Water and the Exchange Water to the Point of Delivery.

(b) Within 10 days after the Effective Date, SGPWA will submit a request to DWR that DWR deliver the Transfer Water to CCWA pursuant to the delivery schedule as agreed upon by the Parties. SGPWA will coordinate with DWR to confirm the quantity of Transfer available for delivery to CCWA in 2022.

(c) CCWA shall be responsible for coordinating approvals from DWR for the delivery of the Transfer Water to CCWA and for subsequent delivery to one or more of CCWA's Participants. CCWA shall be responsible for obtaining SBCFCWCD's execution of the DWR Approval Agreement.

(d) The Parties will cooperate as follows:

(i) Coordination with DWR for processing and obtaining DWR approvals necessary for the approval and implementation of this Agreement.

(ii) Coordination with DWR for delivery of the Transfer Water and Exchange Water.

(iii) SGPWA, in coordination with CCWA, will submit the water delivery schedule to DWR for delivery of the Transfer Water.

(iv) CCWA, in coordination with SGPWA, will submit water delivery schedules to DWR for deliveries of the Exchange Water.

6. Payment and Reconciliation

(a) For each AF of Transfer Water delivered to the Point of Delivery, CCWA shall pay \$1500 to SGPWA.

(b) Within seven days of the date the DWR Agreement is fully executed, CCWA shall submit a one-time payment to SGPWA in the amount of six hundred thousand dollars (\$600,000.00) (“One-Time Payment”), which payment assumes that 400 AF of Transfer Water will be delivered to CCWA on or before December 31, 2022.

(c) In the event that less than 400 AF of Transfer Water is delivered to CCWA on or before December 31, 2022, within 30 days of the delivery of any Transfer Water to the Point of Delivery, SGPWA shall refund to CCWA any overpayment for Transfer Water not delivered.

7. Costs and Expenses

(a) CCWA will be responsible for the following costs and expenses:

(i) Costs and expenses in connection with taking delivery of the Transfer Water at the Point of Delivery.

(ii) Costs and expenses in connection with delivery of the Exchange Water to the Point of Delivery.

(iii) DWR Variable charges for conveying the Transfer Water from the Point of Delivery to CCWA’s service area.

(iv) CCWA’s internal and transaction costs in connection CCWA’s activities under this Agreement including, but not limited to, costs for review and processing of required agreements, environmental documents, and other transaction costs.

(b) SGPWA will be responsible for the following costs and expenses:

(i) Costs and expenses in connection with delivering the Transfer Water to the Point of Delivery.

(ii) Costs and expenses in connection with taking delivery of the Exchange Water at the Point of Delivery.

(iii) SGPWA shall be responsible for the DWR Variable Charges for conveying the Exchange Water from the Point of Delivery to SGPWA’s service area.

(iv) SGPWA’s internal and transaction costs in connection SGPWA’s activities under this Agreement including, but not limited to, costs for review and processing of required agreements, environmental documents, and other transaction costs.

8. Approvals and Requirements. The Transfer and Exchange provided for in this Agreement shall be subject to satisfaction of all applicable approvals and requirements and shall be governed

by the terms and conditions of such approvals and any other applicable legal requirements. Each Party is responsible for satisfying their respective requirements, as applicable, including but not limited to the following:

- (a) complying with Article 57(g) of each Party's respective Water Supply Contract;
- (b) obtaining all permits, consents, entitlements, and approvals necessary to perform this Agreement; and
- (c) fully and completely complying with the California Environmental Quality Act ("CEQA"). The lead agency for the purposes of CEQA will be SGPWA. The Parties shall cooperate with each other and DWR in determining and completing any environmental reviews associated with the activities under this Agreement. To the extent required, the Parties shall share equally the costs for a consultant, if needed, to prepare environmental documents.

9. Conditions Precedent. This Agreement is subject to each and all the following conditions precedent:

- (a) DWR's written approval of the Transfer and Exchange. SGPWA and CCWA anticipate that DWR's approval will be provided in the form of a Change in Point of Delivery Agreement ("DWR Approval Agreement"). In the event of a conflict between the terms of this Agreement and the DWR Approval Agreement, the terms of the DWR Approval Agreement shall govern.
- (b) SBCFCWCD's execution of the DWR Approval Agreement, on behalf of CCWA.

10. Termination.

- (a) This Agreement may be terminated in accordance with the following:
  - (i) Default. In the event a Party fails to perform any of its obligations under this Agreement ("Defaulting Party"), the other Party ("Non Defaulting Party") may demand in writing that the Defaulting Party cure such non-performance. The Defaulting Party shall have 90 days after receipt of such demand to cure the default. In the event the Defaulting Party fails to cure the default within the 90 period, the Non Defaulting Party may take any and all actions in law or in equity which may be available to enforce this Agreement.
  - (ii) Mutual consent. This Agreement may be terminated at any time by mutual written consent of both Parties.
  - (iii) Insufficient SWP Allocations. SGPWA may elect, in its sole and absolute discretion, to terminate this Agreement if SWP allocations issued by the DWR fall below 5% for calendar year 2022.
  - (iv) Failure of One or More Conditions Precedent. In the event any condition precedent to this Agreement has not been satisfied by December 1, 2022, due to circumstances outside of the responsibility or control of the Parties, as applicable, the Parties will meet and confer to discuss whether to amend, suspend, or terminate this Agreement. If mutual agreement is not reached on or before December 15, 2022, then either Party may terminate this Agreement.

(b) Return of One-Time Payment. In the event this Agreement is terminated prior to delivery of the Transfer Water to CCWA, SGPWA shall return the One-Time Payment within 30 days of the date of termination.

11. Force Majeure. The respective obligations of each party shall be suspended while it is prevented from complying by acts of God, war, riots, civil insurrection, acts of civil or military authority, fires, floods, earthquakes, labor accidents or incidents, rules and regulations of any governmental agency (other than the Parties themselves), or other cause of the same or other character any of which are beyond the reasonable control of either Party (collectively, "Force Majeure"). In the event of a suspension due to the Force Majeure, the Party whose obligations are suspended shall promptly notify the other Party in writing of such suspension and the cause and estimated duration of such suspension.

12. Defense. In the event of any legal action by a third party to challenge this Agreement and/or the Transfer and/or Exchange described herein, the Parties agree to cooperate in the defense thereof and to share equally in the costs of such defense, utilizing counsel mutually acceptable to the parties.

13. Power and Authority to Execute and Perform this Agreement. Each Party has the power and authority to enter into this Agreement and to perform its obligations and all necessary approvals and authorizations have been obtained for entering into this Agreement.

14. General Provisions

(a) Remedies Not Exclusive. Remedies provided in this Agreement for enforcement of its terms are intended and shall be construed as cumulative rather than exclusive and shall not be deemed to deprive either Party from also using any other remedies provided by this Agreement or by law.

(b) Subject to Applicable Law. The Parties acknowledge and agree that this Agreement and the rights and obligations of the Parties shall be subject to the laws governing public agencies as they now exist and as they may be amended or codified by the Legislature of the State of California.

(c) Entire Agreement. This Agreement contains the entire understanding between the Parties with respect to its subject matter, and supersedes all prior agreements, oral or written, and all prior or contemporaneous discussions or negotiations between the Parties. This Agreement cannot be amended except in writing signed by both Parties.

(d) No Waiver. Any failure or delay on the part of either Party to exercise any right under this Agreement shall not constitute a waiver of the right and shall not preclude such Party from exercising or enforcing the right, or any other provision of this Agreement, on any subsequent occasion.

(e) Notices. All notices or other communications required or desired to be given pursuant to this Agreement shall be in writing and shall be delivered in person, by email, or sent by a reputable overnight courier service providing delivery confirmation. Each such notice or communication shall be deemed to be duly given when hand-delivered or one day after being emailed or deposited for next day delivery with an overnight courier. Each such notice or

communication shall be addressed to the Parties at their respective addresses set forth next to their signatures below, or such other address as a Party notifies the other in writing.

(f) Headings; Section References. Captions and headings appearing in this Agreement are inserted solely as reference aids for ease and convenience; they shall not be deemed to define or limit the scope or substance of the provisions they introduce, nor shall they be used in construing the intent or effect of such provisions.

(g) Severability. If any provision of this Agreement is finally determined by a court to be invalid or unenforceable as written, the provision shall, if possible, be enforced to the extent reasonable under the circumstances and otherwise shall be deemed deleted from this Agreement. The other provisions of this Agreement shall remain in full force and effect so long as the material purposes of the Agreement and understandings of the Parties are not impaired.

(h) Binding Effect on Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and permitted assigns.

(i) Attorneys' Fees. In the event that any action or proceeding is brought to enforce one or more of the terms of this Agreement, to restrain an alleged violation of this Agreement, or to determine the validity of this Agreement or any part, the prevailing Party in any such action or proceeding shall be entitled to recover from the other its reasonable costs and attorneys' fees, in addition to any other remedies available to it in law or equity. If both Parties are successful in one or more causes of action during any such proceeding, the costs and fees shall be apportioned as determined by the court.

(j) Governing Law and Venue. This Agreement is a contract governed in accordance with the laws of the State of California. The Parties hereby agree that venue for any action brought to enforce the terms of this Agreement shall be in a court of competent jurisdiction in the County of San Bernardino, California, and consent to the jurisdiction thereof.

(k) Counterparts; Delivery by Email; Electronic Signatures. The Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when taken together shall constitute one and the same document. Counterparts may be delivered via electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

*[Signatures follow on the next page]*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**CENTRAL COAST WATER AUTHORITY    SAN GORGONIO PASS WATER AGENCY**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Ray Stokes  
Executive Director

Lance Eckhart, PG, CHG  
General Manager/Chief Hydrogeologist

Central Coast Water Authority  
255 Industrial Way  
Buellton, CA 93427  
Attn: Ray Stokes, Executive Director  
Email: [RAS@ccwa.com](mailto:RAS@ccwa.com)

San Gorgonio Pass Water Agency  
1210 Beaumont Ave.  
Beaumont, CA 92223  
Attn: Lance Eckhart, General Manager  
Email: [LEckhart@sgpwa.com](mailto:LEckhart@sgpwa.com)



**NOTICE OF EXEMPTION**

<p><b>TO:</b> County Clerk County of Riverside 2720 Gateway Drive Riverside, CA 92507</p> <p>Santa Barbara Clerk-Recorder's Office 1100 Anacapa Street Santa Barbara, CA 93009-1260</p> <p>Office of Planning and Research 1400 Tenth Street, Room 222 Sacramento, CA 95814 Attn: State Clearinghouse</p>	<p><b>FROM:</b> San Gorgonio Pass Water Agency 1210 Beaumont Ave. Beaumont, CA 92223 Phone: (951) 845-2577</p>
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Project Title:	2022 San Gorgonio Pass Water Agency and the Central Coast Water Authority Water Exchange
Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	Within the service areas of the Central Coast Water Authority ("Authority"), and the San Gorgonio Pass Water Agency ("Agency"). The water transfers will be confined to existing infrastructure of the California Aqueduct and San Luis Reservoir.
a) Project Location – Cities:	Agency and Authority's service areas
Project Location – Counties:	Santa Barbara County Riverside County
Description of nature, purpose, and beneficiaries of Project:	<p>On September 26, 2022, the Board of Directors for the San Gorgonio Pass Water Agency approved the Transfer And Exchange Agreement between the Central Coast Water Authority and the Agency ("Agreement"). The Agreement authorizes a one-time water transfer of up to 400 acre-feet of water from the Agency to the Authority.</p> <p>On October 19, 2021, Governor Newsom proclaimed that local agencies are encouraged to take actions to coordinate use of their available supplies. The Authority and Agency each have water supply contracts, directly or indirectly, with the California Department of Water Resources ("DWR") for water from the State Water Project ("SWP"). Allocations of SWP are extremely low this year and the Authority could benefit from additional water supplies in 2022. The Authority is requesting up to 400 acre-feet of the Agency's SWP supply in 2022 which would then be returned to the Agency over a 10-year period. The Agency is willing to enter into this transfer and exchange pursuant to the terms of the Agreement.</p>
Name of Public Agency approving project:	San Gorgonio Pass Water Agency
Name of Person or Agency carrying out project:	San Gorgonio Pass Water Agency; Central Coast Water Authority; and Department of Water Resources
Exempt status: (check one)	

<input checked="" type="checkbox"/> Categorical Exemption. State type and class number:	State CEQA Guidelines, § 15301[Existing Facilities]
<input checked="" type="checkbox"/> Statutory Exemption. State Code section number:	State CEQA Guidelines § 15282(u)
<input checked="" type="checkbox"/> Other. Explanation:	State CEQA Guidelines § 15061(b)(3)
Reason why project was exempt:	<p>The execution of the Agreement effectuating the transfer and exchange of SWP Water from the Agency to the Authority is statutorily exempt from substantive CEQA review under State CEQA Guidelines section 15282(u), which exempts temporary changes in the point of diversion, place of use, of purpose of use due to a transfer or exchange of water or water rights. Here, the proposed Project involves the exchange of a certain amount of the Agency’s SWP Water for the year 2022. The Project merely changes the place of use, and does not involve construction of any additional facilities to service the Project. As the Project involves a one year exchange, it also satisfies the definition of “temporary change” pursuant to Water Code section 1728.</p> <p>Additionally, the Project is categorically exempt from environmental review under CEQA pursuant to State CEQA Guidelines section 15301 (Class 1 – Existing Facilities), which exempts from further CEQA review the operation of existing public structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The Project will use existing facilities and will not require the construction of additional facilities to affect the delivery of the non-SWP water.</p> <p>Finally, the Project is exempt pursuant to State CEQA Guidelines section 15061(b)(3) which exempts those activities for which it can be seen with certainty that there is no potential to result in significant environmental effects. The Project involves the transfer of an existing allocation of water within existing facilities.</p>
Contact Person:	Lance Eckhart, General Manager
Telephone:	(951) 845-2577

Date Received for Filing: \_\_\_\_\_

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Signature (Lead Agency Representative)

(Clerk Stamp Here)