

San Geronio Pass Water Agency

DATE: November 20, 2023
TO: Board of Directors
FROM: Lance Eckhart, General Manager
BY: Emmett Campbell, Senior Water Resources Planner
SUBJECT: SGPWA – CLAWA 2013 Water Exchange Agreement Amendment #1

RECOMMENDATION

The Board of Directors approves Amendment #1 to the 2013 Water Exchange Agreement between SGPWA and CLAWA.

PREVIOUS CONSIDERATION

No Previous Consideration

BACKGROUND

In 2013, San Geronio Pass Water Agency (Agency) and Crestline-Lake Arrowhead Water Agency (CLAWA) entered into a water exchange agreement whereby CLAWA provided the Agency with 2,000 acre-feet of State Water Project (SWP) water. In exchange, SGPWA would return 1,300 acre-feet of water back to CLAWA by the end of 2023.

To date, CLAWA has not needed this return water; therefore, 1,300 acre-feet of return water remains outstanding. The Agency still owes this water to CLAWA, and an amendment to the original agreement is needed before the expiration of the original agreement. Amendment #1 would extend the original agreement by three years to the end of 2026.

FISCAL IMPACT

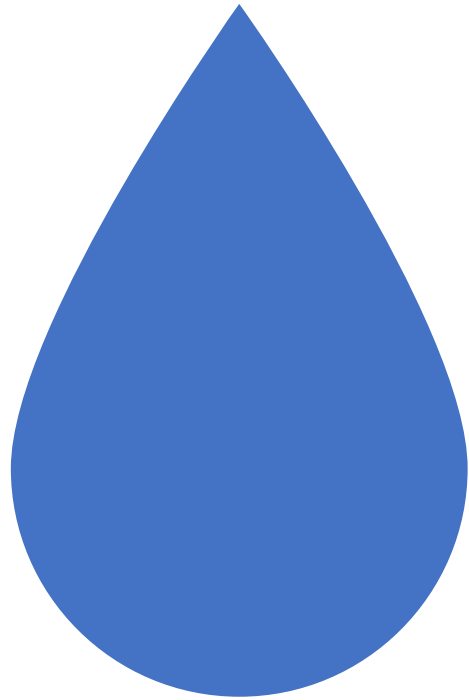
No Fiscal Impact

ACTION

Approve amendment #1 to the 2013 Water Exchange Agreement between SGPWA and CLAWA.

ATTACHMENTS

- 2013 Water Exchange Agreement Amendment #1 Between CLAWA and SGPWA
- 2013 Water Exchange Agreement Between CLAWA and SGPWA



BOARD OF DIRECTORS

11/20/2023

2013 CLAWA Water Exchange Extension





Strategic Partnerships

Goal: Align with the current and future water landscape, supporting the region's long-term needs by diversifying the local supply portfolio and advancing water sustainability.

Objective: Establish relationships and expand collaborative opportunities at the local, regional, state, and federal levels that will enhance the water supply in the region.

CLAWA Water Exchanges and Transfers

Agreement Year	Water Received	Return Water	Returned	Outstanding	Notes
2010	1,000	1,000	1,000	0	Completed in 2020
2013	2,000	1,300	0	1,300	Expires in 2023
2016	1,200	600	0	600	Expires in 2026
2017	2,000	1,000	0	1,000	Expires in 2027
Total	6,200	3,900	1,000	2,900	-

SAN GORGONIO PASS WATER AGENCY
CRESTLINE-LAKE ARROWHEAD WATER AGENCY
FIRST AMENDMENT
TO
WATER EXCHANGE AGREEMENT

RECITALS

- A. San Gorgonio Pass Water Agency (“SGPWA”) is a public agency organized in accordance with the San Gorgonio Pass Water Agency Law (Water Code Appendix Sections 101-1 et seq.) with broad powers to acquire and sell water. SGPWA has a Water Supply Contract with the Department of Water Resources (“DWR”) that provides it with a Table A Amount of 17,300 acre-feet of water per year from the State Water Project.
- B. Crestline-Lake Arrowhead Water Agency (“CLAWA”) is a public agency organized in accordance with the Crestline-Lake Arrowhead Water Agency Law (Water Code Appendix Section 104-1 et seq.) with broad powers to acquire and sell water. CLAWA has a Water Supply Contract with DWR that provides it with a Table A Amount of 5,800 acre-feet of water per year from the State Water Project.
- C. SGPWA and CLAWA entered into that certain Water Exchange Agreement, dated July 25, 2013 (“2013 Agreement”) to implement an exchange of water from their respective Table A Amounts for the benefit of their respective service areas, with CLAWA delivering 2,000 acre-feet of its Table A Amount to SGPWA in Calendar Year 2013, and with SGPWA returning 1,300 acre-feet of water to CLAWA no later than the end of Calendar Year 2023.
- D. CLAWA has not had the need to take delivery of the “Exchange Water,” as defined in the 2013 Agreement. The deadline for taking delivery of the Exchange Water is due to expire at the end of December, 2023. The parties desire to enter into this First Amendment to the 2013 Agreement (“First Amendment”) in order to extend the delivery deadline for the Exchange Water from the end of December, 2023 to the end of December, 2026.

IN CONSIDERATION OF THE MUTUAL PROMISES of the Parties as set forth herein, it is agreed as follows:

1. **Section 1. Description of the Exchange and Procedures** of the 2013 Agreement is hereby deleted and replaced, in its entirety, with the following:

“Within 10 days after the date of execution of this Agreement by both parties, CLAWA will in writing request the California Department of Water Resources (“DWR”) to deliver 2,000 acre-feet of State Water Project water from CLAWA’s 2013 Table A Amount to SGPWA according to a delivery schedule that SGPWA will submit to DWR. A copy of CLAWA’s written request to DWR shall also be delivered to SGPWA. After written confirmation to CLAWA from SGPWA that such water has been delivered to SGPWA, in a subsequent year DWR shall deliver 1,300 acre-feet of State Water Project water from SGPWA’s Table A Amount (“Exchange Water”) to CLAWA according to a delivery schedule that CLAWA will submit to DWR. SGPWA and CLAWA shall meet and confer in advance of scheduling delivery of the Exchange Water to CLAWA. Delivery of the Exchange Water shall be completed no later than the end of December, 2026. If CLAWA requests delivery of Exchange Water in a year which DWR has declared to be critically dry, SGPWA and CLAWA agree to confer in good faith to adjust the quantity of Exchange Water to be delivered in that year so as to minimize adverse impacts on the ability of both Parties to satisfy the needs of their respective customers. Each Party’s obligation for the delivery of water to the other Party pursuant to this Agreement shall be subject to the availability of water from the State Water Project.”

2. **Conditions Precedent and Covenants.**

(a) **DWR Approval.** No provisions of this First Amendment requiring DWR approval shall become operative until DWR approves of those provisions. SGPWA and CLAWA shall use their best efforts to promptly obtain such approvals.

(b) **State Water Contractors.** SGPWA and CLAWA agree that they will each, with due diligence and in good faith, seek to obtain the support and approval of this First Amendment by the State Water Contractors, if required, and request DWR to approve the exchange of water as set forth in the 2013 Agreement.

3. **Remaining Provisions Of 2013 Agreement To Remain In Effect.**

Except as otherwise specifically set forth in this First Amendment, all other provisions of the 2013 Agreement shall remain in full force and effect.

SAN GORGONIO PASS WATER AGENCY

By: _____
General Manager

Date: _____

CRESTLINE-LAKE ARROWHEAD WATER
AGENCY

By: _____
General Manager

Date: _____

SAN GORGONIO PASS WATER AGENCY
CRESTLINE-LAKE ARROWHEAD WATER AGENCY
WATER EXCHANGE AGREEMENT

RECITALS

- A. San Gorgonio Pass Water Agency ("SGPWA") is a public agency organized in accordance with the San Gorgonio Pass Water Agency Law (Water Code Appendix Sections 101-1 et seq.) with broad powers to acquire and sell water. SGPWA has a Water Supply Contract with the Department of Water Resources ("DWR") that provides it with a Table A Amount of 17,300 acre-feet of water per year from the State Water Project.
- B. Crestline-Lake Arrowhead Water Agency ("CLAWA") is a public agency organized in accordance with the Crestline-Lake Arrowhead Water Agency Law (Water Code Appendix Section 104-1 et seq.) with broad powers to acquire and sell water. CLAWA has a Water Supply Contract with DWR that provides it with a Table A Amount of 5,800 acre-feet of water per year from the State Water Project.
- C. SGPWA and CLAWA intend by this Agreement to implement an exchange of water from their respective Table A Amounts for the benefit of their respective service areas, with CLAWA delivering 2,000 acre-feet of its Table A Amount to SGPWA in Calendar Year 2013, and with SGPWA returning 1,300 acre-feet of water to CLAWA no later than the end of Calendar Year 2023.

IN CONSIDERATION OF THE MUTUAL PROMISES of the Parties as set forth herein, it is agreed as follows:

1. Description of the Exchange and Procedures.

Within 10 days after the date of execution of this Agreement by both parties, CLAWA will in writing request the California Department of Water Resources ("DWR") to deliver 2,000 acre-feet of State Water Project water from CLAWA's 2013 Table A Amount to SGPWA according to a delivery schedule that SGPWA will submit to DWR. A copy of CLAWA's written request to DWR shall also be delivered to SGPWA. After written confirmation to CLAWA from SGPWA that such water has been delivered to SGPWA, in a subsequent year DWR shall deliver 1,300 acre-feet of State Water Project water from SGPWA's Table A Amount ("Exchange Water") to CLAWA according to a delivery schedule that CLAWA will submit to DWR. SGPWA and CLAWA shall

meet and confer in advance of scheduling delivery of the Exchange Water to CLAWA. Delivery of the Exchange Water shall be completed no later than December, 2023. If CLAWA requests delivery of Exchange Water in a year which DWR has declared to be critically dry, SGPWA and CLAWA agree to confer in good faith to adjust the quantity of Exchange Water to be delivered in that year so as to minimize adverse impacts on the ability of both Parties to satisfy the needs of their respective customers. Each Party's obligation for the delivery of water to the other Party pursuant to this Agreement shall be subject to the availability of water from the State Water Project.

2. Points of Delivery and Measurement.

(a) **SGPWA.** The point of delivery and measure of the 2,000 acre-feet of water from CLAWA's Table A Amount to SGPWA in 2013 shall be at SGPWA's designated point of delivery.

(b) **CLAWA.** The point of delivery and measurement of the Exchange Water from SGPWA to CLAWA shall be at CLAWA's designated point of delivery.

3. Charges.

Neither SGPWA nor CLAWA shall charge any costs to the other for use of either Party's facilities to the point of delivery. Each Party shall be responsible for all costs of, and entitled to all prior credits generated by, the delivery of water to that Party as if it had come from that Party's own Table A Amount in the year of delivery.

4. Conditions Precedent and Covenants.

(a) **DWR Approval.** No provisions of this Agreement requiring DWR approval shall become operative until DWR approves of those provisions. SGPWA and CLAWA shall use their best efforts to promptly obtain such approvals.

(b) **State Water Contractors.** SGPWA and CLAWA agree that they will each, with due diligence and in good faith, seek to obtain the support and approval of this Agreement by the State Water Contractors and request DWR to approve the exchange of water as set forth herein.

5. Notices.

All written notices required to be given pursuant to the terms of this Agreement shall be either (i) personally delivered, (ii) deposited in the United States express mail or first-class mail, (iii) delivered by overnight courier service or (iv) delivered by facsimile transmission, provided that the original of such notice is sent by certified United States mail, postage

prepaid, no later than one (1) business day following such facsimile transmission. All such notices shall be deemed delivered upon actual receipt (or upon first attempt at delivery pursuant to the methods specified herein if the intended recipient refuses to accept delivery). All such notices shall be delivered to the following addresses or to such other address as the receiving party may from time to time specify by written notice to the other party:

SGPWA:

San Gorgonio Pass Water Agency
1210 Beaumont Ave.
Beaumont, CA 92223

Attention: General Manager
Telephone: (951) 845-2577
Facsimile: (951) 845-0281

CLAWA:

Crestline-Lake Arrowhead Water Agency
24116 Crest Forest Drive
P.O. Box 3880
Crestline, CA 92325-3880

Attention: General Manager
Telephone: (909) 338-1779
Facsimile: (909) 338-3686

6. **Miscellaneous.**

(a) **No Assignment.** No party shall assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of the other party.

(b) **Successors and Permitted Assigns.** All covenants and agreements contained in this Agreement by or on behalf of any of the parties shall bind and inure to the benefit of their respective successors and permitted assigns, whether so expressed or not.

(c) **No Modification of Existing Contracts.** This Agreement shall not be interpreted to modify the terms or conditions of the water supply contracts between the DWR and CLAWA, and between DWR and SGPWA, or to modify the terms or conditions of any other water purchase or exchange agreements between CLAWA and SGPWA.

(d) **Governing Law/Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of California. Venue for

any actions brought regarding this Agreement shall be in the County of Riverside, provided that, in accordance with the provisions of the Code of Civil Procedure Section 394, a disinterested judge from a neutral county is assigned to hear such action and all such proceedings in connection therewith.

(e) **Ministerial Actions.** Due to increasing State-wide demands for water, water exchanges, water storage, banking and recovery, and various water quality issues throughout the State, the parties agree that this project is unique and cannot be duplicated and there is not a plain, speedy, and adequate remedy at law for CLAWA or SGPWA should either refuse or fail to perform their respective obligations as set forth in this Agreement. Consequently, CLAWA and SGPWA agree that the terms of this Agreement are enforceable by a writ of mandate and specific performance.

(f) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument. Signatures sent by facsimile shall be deemed originals and treated in all respects as originals.

(g) **Further Action.** The parties agree to and shall take such further action and execute such additional documents as may be reasonably required to effectuate the terms and conditions of this Agreement and to the extent consistent with the terms thereof.

(h) **Interpretation.** This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as whole according to its fair meaning and without regard to or aid of Civil Code Section 1654 or similar judicial rules of construction. Each party acknowledges that it has had the opportunity to seek the advice of experts and legal counsel prior to executing this Agreement and that it is fully aware of and understands all of the terms and the legal consequences thereof. The headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

SAN GORGONIO PASS WATER AGENCY

By: Jeffrey W. Davis
General Manager

Date: 7-25-13

CRESTLINE-LAKE ARROWHEAD WATER
AGENCY

By: _____
General Manager

Date: _____