

Kern Fan Groundwater Storage Project

FEASIBILITY REPORT

Attachment 11: Change in Point of Delivery Agreement

October 21, 2019
Updated April 13, 2020



State of California
The Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT AMONG
THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA,
DUDLEY RIDGE WATER DISTRICT,
KERN COUNTY WATER AGENCY,
AND
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
FOR A MULTI-YEAR EXCHANGE
AND
CHANGE IN POINT OF DELIVERY
OF A PORTION OF DUDLEY RIDGE WATER DISTRICT'S
STATE WATER PROJECT APPROVED TABLE A WATER

SWPAO #17030

THIS AGREEMENT is made this 7th day of June, 2018, pursuant to the provisions of the California Water Resources Development Bond Act and other applicable laws of the State of California, among the Department of Water Resources of the State of California, herein referred to as "DWR," the Dudley Ridge Water District, herein referred to as "DRWD," the Kern County Water Agency, herein referred to as "KCWA," a political subdivision of the State of California created by an Act of the California State Legislature (Statutes 1961, Chapter 1003 or as amended) and the Metropolitan Water District of Southern California, herein referred to as "MWDSC," a metropolitan water district incorporated pursuant to an Act of the California State Legislature (Statutes 1969, Chapter 209 as amended). DWR, DRWD, KCWA, and MWDSC may be referred to individually by name as "Party" or collectively as "Parties".

RECITALS

- A. DWR and DRWD have entered into a water supply contract, executed December 13, 1963, and subsequently amended, providing that DWR shall supply certain quantities of water to DRWD, providing that DRWD shall make certain payments to DWR, and setting forth the terms and conditions of such payment (hereafter the "DRWD Water Supply Contract").
- B. DWR and MWDSC have entered into a water supply contract, executed November 4, 1960, and subsequently amended, providing that DWR shall supply certain quantities of water to MWDSC, providing that MWDSC shall make certain payments to DWR, and setting forth the terms and conditions of such payment (hereinafter the "MWDSC Water Supply Contract").
- C. DWR and KCWA have entered into a water supply contract, executed November 15, 1963, and subsequently amended, providing that DWR shall supply certain quantities of water to KCWA, providing that KCWA shall make certain payments to DWR, and setting forth the terms and conditions of such payment (hereinafter the "KCWA Water Supply Contract").
- D. Irvine Ranch Water District (IRWD) is a California water district located in Orange County, California. IRWD receives State Water Project (SWP) water supplies from Municipal Water District of Orange County (MWDOC), a member unit of MWDSC.
- E. IRWD has entered into an agreement with Rosedale-Rio Bravo Water Storage District (RRBWSD), a member unit of KCWA, entitled "Rosedale-Rio Bravo Water Storage District and Irvine Ranch Water District for a Water Banking and Exchange Program Agreement" in January 2009. The agreement provides for, among other things, terms and conditions between IRWD and RRBWSD for the development and operations of a water banking project. This water banking project consists of recharge, storage and recovery facilities that are located on IRWD property in Kern County known as "Strand Ranch" and integrated into RRBWSD's water banking program, hereafter referred to as the "IRWD's Strand Ranch Water Banking Project."
- F. In 2015, RRBWSD and IRWD established the Stockdale Integrated Banking Project in Kern County. The Stockdale Integrated Banking Project is owned by IRWD and is next to the IRWD's Strand Ranch Water Banking Project. IRWD intends to use the Stockdale Integrated Banking Project to enhance its water supply reliability by providing contingency storage to augment supplies during dry-years.

- G. MWDSC, IRWD, and MWDOC have entered into an agreement entitled "Coordinated Operating, Water Storage, Exchange and Delivery Agreement," executed in April 2011. Such agreement, hereafter referred to as the "MWDSC/IRWD Agreement," provides for, among other things, terms and conditions for IRWD to secure SWP water supplies for the joint benefits of increased water supply reliability and diversification to MWDSC and IRWD.
- H. DWR and KCWA have entered into an agreement entitled "Agreement between Department of Water Resources, State of California and Kern County Water Agency for Introduction of Local Water and Flood Water into the California Aqueduct" in December 1998 (hereafter the "CVC Turn-in Agreement"). The CVC Turn-in Agreement provides for the introduction of local water into the California Aqueduct from the Cross Valley Canal at Reach 12E.
- I. DRWD requests DWR's approval for a long-term unbalanced (2:1) water exchange between DRWD and MWDSC. Under the proposed water exchange, up to 12,240 acre-feet of DRWD's approved SWP water supplies will be delivered to MWDSC from 2018-2027. In exchange, MWDSC will return to DRWD a portion of MWDSC's future SWP water supplies equal to fifty percent (50%) of DRWD's SWP water supplies delivered to MWDSC.
- J. The purpose of this Agreement, SWPAO #17030, is to set forth provisions governing the unbalanced SWP Table A water exchange between DRWD and MWDSC. DWR will deliver a portion of DRWD's approved Table A water to MWDSC by two means: (1) delivery of a portion of DRWD's approved Table A water directly to MWDSC's service area; and/or (2) a change in point of delivery of a portion of DRWD's approved Table A water to KCWA's turnouts for storage in the IRWD's Strand Ranch Water Banking Project and IRWD's Stockdale Integrated Banking Project (hereafter "IRWD Water Banking Projects"), and for future return of stored water to MWDSC.
- K. In 2013, DWR approved a similar multi-year unbalanced water exchange between DRWD and MWDSC (SWPAO #13012). SWPAO #13012 allows the delivery of up to 8,700 acre-feet of DRWD's SWP water supplies to MWDSC through December 31, 2017. In exchange MWDSC will return a portion of its future SWP water supplies equal to fifty percent (50%) of the total amount of DRWD's water supplies delivered to MWDSC by December 31, 2022. SWPAO #13012 allows the delivery of DRWD's SWP water supplies to either MWDSC's turnouts located on the California Aqueduct or KCWA's turnouts for storage in and future return from the IRWD's banking facilities in Kern County.

- L. In compliance with the California Environmental Quality Act (CEQA), DRWD, as Lead Agency, file a Notice of Exemption (NOE) with the State Office of Planning and Research (OPR) on September 28, 2017 (SCH #2017098502). In addition, DRWD prepared an Initial Study/Negative Declaration and filed a Notice of Determination (NOD) with OPR (SCH #2016021110) on the adoption and implementation of the 2015 Updated to the 2012 Water Management Plan in April 2016, which among many other things, describes such water exchanges as being part of DRWD's routine water management strategy.
- M. IRWD prepared a Negative Declaration for the Jackson Ranch Water Allocation Project which provides for water to be delivered to the Strand Ranch Intergrated Banking Project and filed a Notice of Determination (NOD) with OPR on November 30, 2009 (SCH #2009111097). RRBWSD filed a NOD with OPR in May 2008 for the Strand Ranch Water Banking Project (SCH #2007041080) and a NOD with OPR in December 2015 for the Stockdale Integrated Water Banking Project (SCH #2013091076).
- N. DWR, as Responsible Agency, will file an NOE upon execution of this Agreement.

AGREEMENT

DWR is willing to approve the exchange of up to 12,240 acre-feet of DRWD's approved SWP Table A water with a portion of MWDSC's future approved SWP Table A water equal to fifty-percent (50%) of the total amount of DRWD's approved Table A water delivered to MWDSC; and the delivery of a portion of DRWD's approved Table A water to MWDSC by: (1) delivery of DRWD's approved Table A water to KCWA's turnout for storage in the IRWD Water Banking facilities in Kern County and for future return of the stored water to MWDSC; and/or (2) delivery of DRWD's approved Table A water to MWDSC's service area, subject to the following terms and conditions.

1. TERM OF AGREEMENT

This Agreement shall become effective upon execution by all Parties and shall provide for the delivery of a portion of DRWD's approved Table A water to MWDSC through December 31, 2027. The return delivery of MWDSC's approved Table A water to DRWD under this Agreement shall be completed within 10 years of its delivery from DRWD, or by December 31, 2035, whichever comes earlier. Water delivered to KCWA for storage under this Agreement shall be returned to MWDSC by December 31, 2035. This Agreement shall remain in effect until all water, less losses as agreed upon in writing by MWDSC and IRWD, is returned, or upon final payment to DWR of all costs attributable to this Agreement, whichever occurs later.

However, the liability, hold harmless and indemnification obligations in this Agreement shall remain in effect until December 31, 2039, or until any claim or litigation concerning this Agreement asserted to DWR, MWDSC, DRWD, or KCWA as of December 31, 2039 is finally resolved, whichever occurs later. Extending the obligations in this paragraph of this Agreement beyond the termination dates in the long term SWP water supply contracts between DWR and DRWD, between DWR and MWDSC, and between DWR and KCWA, and the use of the December 31, 2039 date in this Agreement, are not intended to have any legal effect on the termination dates of those or any other long term SWP water supply contracts.

2. UNIQUENESS OF AGREEMENT

DWR's approval under this Agreement is unique and shall not be considered a precedent for future agreements or DWR activities.

3. WATER DELIVERY FROM DRWD TO MWDSC

DWR will deliver up to 12,240 acre-feet of DRWD's approved Table A water to MWDSC by two means: 1) delivery directly to MWDSC's turnouts located on the California Aqueduct and/or 2) delivery to KCWA's turnouts in Reach 12E of the California Aqueduct.

a. WATER DELIVERY TO MWDSC's TURNOUTS

- i. DWR will deliver a portion of DRWD's approved Table A water, normally scheduled for delivery to DRWD's turnouts, to MWDSC's turnouts for use in its service area.
- ii. The delivery of a portion of DRWD's approved Table A water to MWDSC under this Agreement shall be in accordance with a schedule approved by DWR. DWR's approval is dependent upon the times and amounts of the delivery and the overall delivery capability of the SWP. DWR shall not be obligated to deliver the water at times when such delivery would adversely impact SWP operations, facilities, or other SWP contractors.
- iii. In coordination with and upon approval of DRWD, MWDSC shall be responsible for scheduling with DWR the water delivery to MWDSC's turnouts under this Agreement.
- iv. In any given year, the sum of deliveries scheduled to MWDSC under this Agreement, plus scheduled MWDSC SWP water supplies, plus deliveries to MWDSC pursuant to any other agreements, shall not exceed the quantities on which the Proportionate Use-of-Facilities factors are based under MWDSC's Water Supply Contract unless DWR determines that deliveries will not adversely impact SWP operations, facilities, or other SWP contractors.

b. WATER DELIVERY TO STORAGE FOR MWDSC

- i. DWR will deliver a portion of DRWD's approved Table A water to KCWA's turnouts in Reach 12E of the California Aqueduct. Water delivered to KCWA under this Agreement will be classified as MWDSC's SWP Table A water.

- ii. The delivery of water to KCWA for storage in IRWD's Water Banking Projects under this Agreement shall be in accordance with a schedule approved by DWR. DWR's approval is dependent upon the times and amounts of the delivery and the overall delivery capability of the SWP. DWR shall not be obligated to deliver the water at times when such delivery would adversely impact SWP operations, facilities, or other SWP contractors.
- iii. In coordination with and upon approval of DRWD and KCWA, MWDSC shall be responsible for scheduling, with DWR, the delivery of DRWD's approved Table A to KCWA's turnouts.
- iv. As part of coordinating delivery schedules among DRWD, MWDSC, and KCWA, MWDSC will submit a delivery schedule to KCWA and RRBWSD for review and approval. KCWA and RRBWSD shall review the proposed schedule with MWDSC, and after consultation with RRBWSD, KCWA agrees to inform MWDSC of its decision to either approve, propose modifications, or withhold approval as promptly as possible. KCWA agrees that it shall not arbitrarily withhold approval or propose modifications. KCWA may withhold approval of, or propose modification to the proposed schedule for the delivery of water to storage under this Agreement if, on the basis of a with and without analysis, KCWA determines that such deliveries would adversely impact KCWA's finances, water supply or operations, and MWDSC or RRBWSD do not agree to mitigate for such impacts. The base case (without analysis) shall be those conditions estimated to occur in the absence of deliveries to KCWA under this Agreement. The KCWA analysis is a matter involving KCWA and MWDSC, not DWR. DWR is not liable to MWDSC or the determinations KCWA makes under this paragraph. DWR is not asserting the validity of KCWA's analysis, nor is it to be held liable by MWDSC for any actions resulting from KCWA's analysis.
- v. The sum of deliveries scheduled to KCWA under this Agreement, plus scheduled KCWA and/or MWDSC SWP water deliveries, plus deliveries to KCWA pursuant to any other agreements, shall not exceed the quantities on which the proportionate Use-of-Facilities factors are based pursuant to KCWA's and/or MWDSC's Water Supply Contract, unless DWR determines that deliveries will not adversely impact SWP operations or facilities, or other SWP contractors.

4. USE OF STORED WATER

DRWD's approved Table A water delivered to KCWA under this Agreement shall not be sold by KCWA, but will be temporarily stored on behalf of MWDSC and for future delivery, less applicable loss as agreed upon by IRWD and MWDSC, and use in MWDSC's service area.

5. RETURN OF STORED WATER

When MWDSC's stored water in KCWA under this Agreement is returned to MWDSC by exchange for KCWA's approved Table A water, the Parties acknowledge that KCWA shall be entitled to a like amount of MWDSC's water stored in the IRWD Water Banking Projects under this Agreement. KCWA attests that the portion of MWDSC's water retained by KCWA will not be sold or used outside KCWA's service area which is within the SWP place of use.

6. USE OF CALIFORNIA AQUEDUCT CAPACITY

Conveyance of water in the California Aqueduct under this Agreement shall be in accordance with a schedule which has been reviewed and approved by DWR under applicable provisions of DRWD's, MWDSC's, and KCWA's Water Supply Contracts. Article 12(f) of DRWD's, MWDSC's, and KCWA's Water Supply Contracts shall govern the priority for delivery of such water.

7. RETURN WATER DELIVERY FROM MWDSC TO DRWD

- a. DWR will deliver a portion of MWDSC's future approved Table A water, normally scheduled for delivery to MWDSC's turnouts, to DRWD's turnouts in Reach 8D of the California Aqueduct. The return water to DRWD shall be equal to 50%, less losses, if any, as agreed upon in writing by MWDSC and DRWD, of DRWD's water delivered to MWDSC under this Agreement.
- b. The delivery of a portion of MWDSC's future approved Table A water to DRWD under this Agreement shall be in accordance with a schedule approved by DWR. DWR's approval is dependent upon the times and amounts of the delivery and the overall delivery capability of the SWP. DWR shall not be obligated to deliver the water at times when such delivery would adversely impact SWP operations, facilities, or other SWP contractors.

- c. In coordination with and upon approval of MWDSC, DRWD shall be responsible for scheduling with DWR the delivery of MWDSC's return water to DRWD's service area.
- d. In any given year, the sum of deliveries scheduled to DRWD under this Agreement, plus scheduled DRWD SWP deliveries, plus deliveries to DRWD under any other agreements, shall not exceed the quantities on which the Proportionate Use-of-Facilities factors are based under DRWD's Water Supply Contract, unless DWR determines that the deliveries will not adversely impact SWP operations, facilities or other SWP contractors.

8. RETURN OF STORED WATER TO MWDSC BY EXCHANGE OF KCWA'S TABLE A WATER

- a. The delivery of stored water to MWDSC under this Agreement shall be in accordance with a schedule approved by DWR. DWR's approval is dependent upon the times and amounts of the delivery and the overall delivery capability of the SWP. DWR shall not be obligated to deliver the water at times when such delivery would adversely impact SWP operations or facilities, or other SWP contractors.
- b. In coordination with KCWA, MWDSC shall be responsible for scheduling with DWR the return delivery of its stored water to MWDSC's service area.
- c. KCWA may propose modifications to the proposed schedule for the return of MWDSC's previously stored water in KCWA under this Agreement if, on the basis of a with and without analysis, KCWA determines that such deliveries would adversely impact KCWA's finances, water supply or operations, and MWDSC or RRBWSD do not agree to mitigate for such impacts. The base case (without analysis) shall be those conditions estimated to occur in the absence of deliveries to KCWA under this Agreement. The KCWA analysis is a matter involving KCWA and MWDSC, not DWR. DWR is not liable to MWDSC for the determinations KCWA makes under this paragraph. DWR is not asserting the validity of KCWA's analysis, nor is it to be held liable by MWDSC for any actions resulting from KCWA's analysis.

- d. The sum of return water deliveries scheduled to MWDSC under this Agreement, plus scheduled MWDSC SWP deliveries, plus deliveries to MWDSC pursuant to any other agreements, shall not exceed the quantities on which the Proportionate Use-of-Facilities factors are based pursuant to MWDSC's Water Supply Contract, unless DWR determines that deliveries will not adversely impact SWP operations or facilities, or other SWP contractors' Table A deliveries.

9. RETURN OF STORED WATER TO MWDSC BY PUMP-IN TO THE CALIFORNIA AQUEDUCT

- a. KCWA may pump in and introduce return water into Reach 12E of the California Aqueduct for delivery by DWR to MWDSC. Such return water shall meet DWR's water quality standards in effect when the water is returned.
- b. Any turn-in facility used to return water to the California Aqueduct must have an executed agreement with DWR for introduction of local water into the California Aqueduct.
- c. The quality of local water introduced into the California Aqueduct under this Agreement shall be in conformance with DWR's water quality document entitled "Department of Water Resources Water Quality Policy and Implementation Process for Acceptance of Non-Project Water into the State Water Project," dated October 31, 2012 or a later date if modified by DWR. KCWA shall submit such data to the Chief of SWP Environmental Assessment Branch, Division of Operations and Maintenance.

10. WATER DELIVERY SCHEDULES

- a. All water delivery schedules and revisions under this Agreement shall be in accordance with Article 12 of DRWD's, MWDSC's, and KCWA's Water Supply Contracts.
- b. DRWD, MWDSC, and KCWA shall submit revised monthly water delivery schedules for approval to the State Water Project Analysis Office, Water Deliveries Section, indicating timing and point of delivery requested under this Agreement with reference to SWPAO #17030. Revised schedules shall be sent by electronic mail to SWPDeliveries@water.ca.gov or by FAX to (916) 653-9628, Attention: Chief, Water Deliveries Section.

- c. DRWD and KCWA shall submit weekly water schedules for the delivery of water under this Agreement to the San Joaquin Field Division, Water Operations Section, indicating timing and point of delivery requested with reference to SWPAO #17030. Schedules shall be sent by electronic mail to SJFDwaterschedule@water.ca.gov or by FAX to (661) 858-0203, Attention: Chief, Water Operation Section.
- d. MWDSC shall submit weekly water schedules for the delivery of water under this Agreement to the Southern Field Division, Water Operations Section, indicating timing and point of delivery requested with reference to SWPAO #17030. Schedules shall be sent by electronic mail to SFDwaterschedule@water.ca.gov or by FAX to (661) 294-3651, Attention: Chief, Water Operations Section.
- e. All weekly water schedules described above shall be submitted by 10:00 a.m. Wednesday, for the following week, Monday through Sunday, to the appropriate field division Water Operations Section for the SWP Contractor.
- f. Weekly water schedules shall also be concurrently sent by electronic mail or faxed to the State Water Project Operations Control Office:
 - i. Water Management Branch
Water_deliv_sched@water.ca.gov
FAX to (916)574-2785
Attention: Chief, Water Management Branch
 - ii. Power Management and Optimization Branch
POCOptimization@water.ca.gov
FAX to (916)574-2785
Attention: Chief, Power Management and Optimization Branch
 - iii. Pre-Scheduling Section
Presched@water.ca.gov
FAX to (916)574-2782
Attention: Chief, Pre-Scheduling Section

11. WATER DELIVERY RECORDS

- a. DWR will maintain monthly records accounting for the delivery of water to MWDSC, KCWA, and DRWD under this Agreement. DRWD and MWDSC shall certify to DWR's State Water Project Analysis Office by January 31 of each year the following monthly information for the previous calendar year:
 - i. the quantity of water delivered to IRWD's Water Banking Projects in Kern County;
 - ii. the quantity of water delivered directly to MWDSC's turnouts;
 - iii. the quantity of stored water returned to MWDSC;
 - iv. the actual losses of stored water; and
 - v. the quantity of MWDSC's water returned to DRWD.
- b. Every five years from the date of execution of this Agreement, DRWD and MWDSC shall provide written notices to SWPAO, Water Contracts Section, with reference to SWPAO #17030. The written notices shall include both agencies' plan for returning the water to DRWD within ten years from the year of delivery to MWDSC.

12. NO IMPACTS

This Agreement shall not be administered or interpreted in any way that would cause adverse impacts to SWP approved Table A water or to any other SWP approved water allocations, water deliveries, or SWP operations or facilities. DRWD, MWDSC, and KCWA shall be responsible, jointly and severally, as determined by DWR, for any adverse impacts that may result from the delivery of water under this Agreement.

13. SWP ALLOCATIONS

Water delivered to DRWD, MWDSC, or KCWA under this Agreement shall not be considered by DWR in the determination of approved annual Table A allocation or allocation of other SWP water to DRWD, MWDSC, and KCWA under Article 18 of DRWD's, MWDSC's, and KCWA's respective Water Supply Contracts.

14. APPROVALS

The delivery of water under this Agreement shall be contingent upon, and subject to, any necessary approvals and shall be governed by the terms and conditions of such approvals and any other applicable legal requirements. DRWD, MWDSC, and KCWA shall be responsible for complying with all applicable laws and legal requirements and for securing any required consent, approvals, permits, or orders. DRWD, MWDSC, and KCWA shall furnish to DWR copies of all approvals and agreements acquired for the delivery of water under this Agreement.

15. CHARGES

DRWD, MWDSC, and KCWA shall pay to DWR the following charges for water delivered under this Agreement, including all future adjustments, which shall be calculated in the same manner as charges are calculated for Table A deliveries and shall be in accordance with the provisions of DRWD's, MWDSC's, and KCWA's Water Supply Contracts with DWR. Charges shall be determined for the year the water is delivered, as well as the year the water is returned.

a. Water Delivered to MWDSC's Service Area

When a portion of DRWD's approved Table A water is delivered to MWDSC under this Agreement, MWDSC shall pay to DWR the charges associated with the delivery of the water from the Delta to the point of delivery at MWDSC's turnouts located on the California Aqueduct. MWDSC shall pay the Variable Operation, Maintenance, Power and Replacement components of the Transportation Charge and the Off-Aqueduct Power Facilities Charge in effect for the year in which the water is delivered to MWDSC's turnouts.

b. Water Delivered to Storage in KCWA

When a portion of DRWD's approved Table A water is delivered from the Delta to KCWA's turnouts in Reach 12E of the California Aqueduct for storage in the IRWD's Water Banking Projects, MWDSC shall pay to DWR the Variable Operation, Maintenance, Power and Replacement Component of the Transportation Charge and the Off-Aqueduct Power Facility costs that is in effect for each acre-foot of water delivered from the Delta to the point of delivery at KCWA's turnouts.

c. Return of Stored Water to MWDSC

- i. When KCWA provides return water to MWDSC by exchange, i.e. by releasing a portion of its approved Table A water in the California Aqueduct for delivery by DWR to MWDSC's turnouts, KCWA shall pay to DWR the Variable Operation, Maintenance, Power and Replacement Component of the Transportation Charge and Off-Aqueduct Power Facility costs that is in effect for each acre-foot of KCWA's approved Table A water, as if the released water were conveyed to KCWA from the Delta to Reach 12E. MWDSC shall pay to DWR the Variable Operation, Maintenance, Power and Replacement Component of the Transportation Charge and Off-Aqueduct Power Facility costs that is in effect for each acre-foot of return water conveyed from Reach 12E to MWDSC's turnouts in the California Aqueduct.
- ii. When KCWA returns MWDSC's water from storage by direct delivery into Reach 12E of the California Aqueduct, such water will be conveyed by DWR to MWDSC's turnouts located on the California Aqueduct. MWDSC shall pay to DWR the Variable Operation, Maintenance, Power and Replacement Component of the Transportation Charge and Off-Aqueduct Power Facility costs that is in effect for each acre-foot of water from the point of introduction to MWDSC's turnouts. KCWA shall not be charged for power resources for replacing return water by direct delivery into the California Aqueduct.

d. Return Water Delivery to DRWD

When a portion of MWDSC's future approved Table A water is returned to DRWD, DRWD shall pay to DWR the charges associated with the delivery of the return water from the Delta to DRWD's turnouts in Reach 8D of the California Aqueduct. DRWD shall pay the Variable Operation, Maintenance, Power and Replacement components of the Transportation Charge and the Off-Aqueduct Power Facilities cost for each acre-foot in effect for the year in which water is delivered to DRWD's turnouts.

- e. In addition to the charges identified above, DRWD, MWDSC, and KCWA agree to pay to DWR any identified demonstrable increase in costs that would otherwise borne by the SWP contractors not signatory to this Agreement or by DWR as result of activities under this Agreement.

- f. Payment terms shall be in accordance with DRWD's, MWDSC's, and KCWA's respective Water Supply Contracts.

16. LIABILITY

- a. DWR is not responsible for the use, effects or disposal of water under this Agreement once the water is delivered to the designated turnout(s). Responsibility shall be governed by Article 13 of DRWD's, MWDSC's, and KCWA's Water Supply Contracts, as applicable, with responsibilities under the terms of that article shifting from DWR to DRWD, MWDSC, and/or KCWA when the water is delivered to the designated turnout(s).
- b. DRWD, MWDSC, and KCWA agree to defend and hold DWR, its officers, employees and agents harmless from any direct or indirect loss, liability, lawsuit, cause of action, judgment or claim, and shall indemnify DWR, its officers, employees and agents from all lawsuits, costs, damages, judgments, attorneys' fees, and liabilities that DWR, its officers, employees and agents incur as a result of DWR providing services under this Agreement, except to the extent resulting from the sole negligence or willful misconduct of DWR, its officers, employees and agents.
- c. If uncontrollable forces preclude DWR from delivering of water under this Agreement, either partially or completely, then DWR is relieved from the obligation to deliver the water to the extent that DWR is reasonably unable to complete the obligation due to the uncontrollable force. Uncontrollable forces shall include, but are not limited to earthquakes, fires, tornadoes, floods, and other natural or human caused disasters. DRWD, MWDSC, and KCWA shall not be entitled to recover any administrative costs or other costs associated with the delivery of water under this Agreement if uncontrollable forces preclude DWR from delivery of water.

17. NO MODIFICATION OF WATER SUPPLY CONTRACTS

This Agreement shall not be interpreted to modify the terms or conditions of DRWD's Water Supply Contract, MWDSC's Water Supply Contract, or KCWA's Water Supply Contract. Unless expressly provided herein, the terms and conditions of DRWD's, MWDSC's, and KCWA's Water Supply Contracts and future amendments apply to this Agreement.

18. DISPUTE RESOLUTION

In the event of a dispute regarding interpretation or implementation of this Agreement, the Director of DWR and general managers of DRWD, MWDSC, and KCWA, or authorized representatives shall endeavor to resolve the dispute by meeting within 30 days after the request of a Party. If the dispute is unresolved, the Parties shall use the services of a mutually acceptable consultant in an effort to resolve the dispute. Parties involved in the dispute shall share the fees and expenses of the consultant equally. If a consultant cannot be agreed upon, or if the consultant's recommendations are not acceptable to the Parties, and unless the Parties otherwise agree, the matter may be resolved by litigation and any Party may, at its option, pursue any available legal remedy, including, but not limited to, injunctive and other equitable relief.

19. ASSIGNMENT OF AGREEMENT

Without the prior written consent of DWR, DRWD, MWDSC, and KCWA, this Agreement is not assignable by DRWD, MWDSC, or by KCWA in whole or in part.

20. MODIFICATION OF AGREEMENT

No modification of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties to this Agreement.

21. PARAGRAPH HEADINGS

The paragraph headings of this Agreement are for the convenience of the Parties and shall not be considered to limit, expand, or define the contents of the respective paragraphs.

22. OPINIONS AND DETERMINATIONS

Where the terms of this Agreement provide for actions to be based upon the opinion, judgment, approval, review, or determination of any Party, such terms are to be construed as providing that such opinion, judgment, approval, review, or determination be reasonable.

23. SIGNATURE CLAUSE

The signatories represent that they have been appropriately authorized to enter into this Agreement on behalf of the Party for whom they sign. A copy of any resolution or other documentation authorizing DRWD, KCWA, and MWDSC to enter into this Agreement shall be provided to DWR before the execution of this Agreement.

24. EXECUTION IN COUNTERPART

This Agreement may be executed in counterpart. The Parties agree to accept facsimile or electronically scanned signatures as original signatures. This Agreement shall take effect as soon as all parties have signed. Immediately after execution, DRWD, MWDSC, and KCWA shall transmit a copy of the executed Agreement by facsimile or electronic file to Pedro Villalobos, Chief, State Water Project Analysis Office at (916) 653-9628 or swpao-chief@water.ca.gov and to each other at:

DRWD: (559) 449-2715 FAX or dmelville@ppeng.com

KCWA: (661) 634-1401 or ccreel@kcwa.com

MWDSC: (213) 217-6890 FAX or jkightlinger@mwdh2o.com

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement.

Approved as to Legal Form
and Sufficiency

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES



Acting
✓ Chief Counsel

Pedro Villalobos, Chief
State Water Project Analysis Office

Date June 6, 2018

Date 6/7/2018

DUDLEY RIDGE WATER DISTRICT

Name

Title

Date

METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA



Name

GENERAL MANAGER

Title

5/15/18

Date

KERN COUNTY WATER AGENCY

Name

Title

Date

DUDLEY RIDGE WATER DISTRICT



Name

MANAGER - ENGINEER

Title

Date 2-14-2018

METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Name

Title

Date _____

KERN COUNTY WATER AGENCY

Name

Title

Date _____

DUDLEY RIDGE WATER DISTRICT

Name

Title

Date

METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Name

Title

Date

KERN COUNTY WATER AGENCY

Carl Carl
Name

General Manager
Title

3/20/18
Date