



REGULAR BOARD OF DIRECTORS MEETING

501 Taft Highway
Bakersfield, California

TUESDAY, May 5, 2026

AGENDA

CALL TO ORDER AND ANNOUNCEMENT OF QUORUM

12:00PM

CLOSED SESSION:

- A. Conference with Legal Counsel – Existing Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(1):
1. Bring Back the Kern, et al. v. City of Bakersfield, et al.
 2. Kern Delta Water District et al. v. Rosedale Rio Bravo Water Storage District, et al. (Onyx Ranch CEQA).
 3. Rosedale Rio Bravo Water Storage District, et al. v. Kern County Water Agency, et al. (CVC).

REGULAR SESSION:

INTRODUCTION OF GUESTS AND PUBLIC

- I. **PUBLIC COMMENT** (Members of the public may address the Board of Directors on any matter not on the agenda, but absent extraordinary circumstances, the Board may not act on such matters. Members of the public may address items of interest that are listed on the agenda prior to the Board's decision on such items.)
- II. **MANAGER'S REPORT** (The General Manager will discuss, and the Board will consider various items and issues relating to the ongoing and future operations of the District which are of interest to the Board)
- A. Approval of Minutes from the Regular Board Meeting of April 21, 2026.
 - B. Update Regarding Golden Mussels.
 - C. Long-Term Yuba Water Purchase Program:
 - i. Approval of KCWA Amendment No. 4 to the Long-Term Yuba Water Purchase Program.
 - ii. 2026 Yuba Program Water Availability.
- III. **BOARD MEMBER COMMENTS** (This item provides Board Members with an opportunity to make announcements or provide general comments.)
- IV. **ADJOURN**

Requests for disability related modifications or accommodations, including auxiliary aids or services may be made by telephoning or contacting Madelyne Rodriguez at the District Office (661-834-4656). Please attempt to make such requests known at least 24 hours before the scheduled meeting. Pursuant to Government Code section 54957.5, any materials relating to an open session item on this agenda, distributed to the Board of Directors after the distribution of the agenda packet, will be made available for public inspection at the time of distribution at the District, 501 Taft Highway, Bakersfield, CA.



**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS**

April 21, 2026

Tuesday, April 21, 2026, 12:03PM– 2:56PM

DIRECTORS PRESENT: Palla, Mendonca, Antongiovanni, Tillema, Spitzer, Fanucchi, Borba, Kaiser, and Garone.

DIRECTORS ABSENT:

STAFF PRESENT: General Manager Teglia, Assistant General Manager Bellue, General Counsel Iger, Controller Duncan, Controller Rivera, and Hydrographer Hyatt.

OTHERS PRESENT: Christian Tufenkjian.

CLOSED SESSION DECLARED AT 12:03PM

President Palla called to order the Closed Session of the Kern Delta Board of Directors at 12:03PM regarding the following agenda items:

A. Conference with Legal Counsel – Existing Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(1):

1. SWRCB Kern River.
2. Rosedale Rio Bravo Water Storage District, et al. v. Kern County Water Agency, et al. (CVC).
3. Kern Delta Water District et al. v. Rosedale Rio Bravo Water Storage District et al. (Onyx Ranch CEQA).
4. Bring Back the Kern, et al. v. City of Bakersfield, et al.
5. Sierra Club v. California Department of Water Resources (Delta Conveyance Project Validation).

B. Conference with Legal Counsel – Potential Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(2),(e)(1):

1. Three Matters.

C. Public Employee Performance Evaluation – Closed Session Pursuant to Gov. Code § 54957(b)(1)/54957.6:

1. General Manager.
2. General Counsel.

Closed Session concluded at 1:37PM.

REGULAR SESSION DECLARED AT 1:40PM

President Palla called to order the Regular Session of the Kern Delta Board of Directors at 1:40PM.

Closed Session Report: District General Counsel Iger reported the following:

Item A: No reportable action.

Item B: No reportable action.

Item C: No reportable action.

INTRODUCTION OF GUESTS AND PUBLIC

Those listed as others present were introduced.

I. PUBLIC COMMENT

None.

II. CONSENT CALENDAR

M/S/C (Garone/Borba) (yes-9, no-0): By unanimous vote the Board approved and authorized items II A through II C of the Consent Calendar.

- A. Approval of Minutes from the Regular Board Meeting of April 7, 2026.
- B. Approval of March/April District Construction and Water Banking Project(s) Disbursements.
- C. Approval of March/April District Disbursements.

III. BUSINESS AND FINANCE

A. Business & Finance Committee Report – April 16, 2026: District Controller Rivera provided a report from the April Business & Finance Committee Meeting.

A(i). Approval of March Financial Reports: Mr. Rivera presented the March District and Water Banking Project(s) Financial Statements, Treasurer’s Reports, and District Delinquency Report.

M/S/C (Antongiovanni/Kaiser) (yes-9, no-0): By unanimous vote the Board approved the March District and Water Banking Project(s) Financial Statements, Treasurer’s Reports, and Delinquency Report as presented.

A(ii). Quarterly Investment Review: Mr. Rivera provided a brief overview of the quarterly investment review report, which was included in the Board agenda package. This item was informational, and no action was recommended or taken.

B. Review and Approval of 2026 COLA Recommendation (Recommended by the Business and Finance Committee): Staff provided an overview of a memorandum included in the Board packet which provided information regarding the recent trend associated with CPI growth over the last year as of February 2026. After reviewing the relevant information, the Business and Finance Committee recommended the Board approve a 2.5% COLA to the District Salary Schedule effective May 1, 2026. Both the existing and revised Salary Schedules were included as attachments to the memorandum.

M/S/C (Kaiser/Spitzer) (yes-9, no-0): By unanimous vote the Board approved a 2.5% COLA to the District Salary Schedule effective May 1, 2026 as reflected in the revised salary schedule.

IV. OPERATIONS AND PROJECTS

A. - A(i-iv). Operations and Projects Committee Report – April 7, 2026: Assistant General Manager Bellue

reported on several items, including District maintenance activities, recent encroachment permit requests, pending development projects impacting District facilities, and an update regarding District initiated projects.

B. Review and Approval of Change Order No. 1 to Construction Management Agreement with Zeiders Consulting for the Sunset Recharge Facility Pumpstation and Pipeline Project \$26,205 (revised not to exceed not to exceed \$427,010): Staff provided a brief overview related to this Change Order, which was necessitated due to the actual length of the project which was well beyond the estimate in the original scope.

M/S/C (Spitzer/Fanucchi) (yes-9, no-0): By unanimous vote the Board approved Change Order No. 1 to Construction Management Agreement with Zeiders Consulting for the Sunset Recharge Facility Pumpstation and Pipeline Project \$26,205 (revised not to exceed \$427,010) as presented.

C. Review and Approval of Emergency Repairs to the Hirshfield Pipeline at McKee Road and Stine Road in the amount of \$20,703.46: Staff provided verbal comments supplementing a memorandum included in the Board packet which summarized the circumstances associated with the emergency repairs to the Hirshfield Pipeline in the area referenced above.

M/S/C (Mendonca/Antongiovanni) (yes-9, no-0): By unanimous vote the Board approved the Emergency Repairs to the Hirshfield Pipeline at McKee Road and Stine Road in the amount of \$20,703.46 as presented.

V. WATER RESOURCES REPORT

A. - A(i-iii). District Watermaster Report: Staff reviewed and discussed the water supplies of the District for the months of March and early April. Approximately 13,649 acre-feet of water was diverted in District during the month of March. Staff also provided information related to current precipitation totals and future forecasts. It was noted that the current 2026 SWP allocation is 30% and the most recent B-120 April through July Kern River runoff forecast for 2026 was 61%. Staff provided a brief update regarding current water management activities.

B. Kern River Watermaster Report: The April Kern River Watermaster Report was included in the Board packet.

C. District Groundwater Manager Report: In place of Groundwater Manager Marquez, General Manager Teglia provided verbal comments supplementing graphical information regarding depth to groundwater at various monitoring locations throughout the District. In addition, Mr. Teglia discussed recent results associated with the subbasin SGMA Groundwater Quality Monitoring Program, specific to the Kern Delta area of the Kern River GSA.

VI. MANAGER'S REPORT

A. General Manager's Report: Mr. Teglia provided an update on several items identified below:

A(i). Review and Approval of Updated Board Committee Assignments: Mr. Teglia referenced the updated Board Committee Assignments memorandum included in the Board packet. This update reflects the appointment of Director Garone to serve as the District's representative to the ACWA JPIA Board. In addition, District Controller Rivera was added as an Assistant Combined Officer.

M/S/C (Borba/Fanucchi) (yes-9, no-0): By unanimous vote the Board approved the updated Board committee assignments as presented.

A(ii-iv). Mr. Teglia discussed several additional items including a summary of a recent meeting of the Agricultural Energy Consumers Association; current status of the rollout of the District sponsored Land IQ

Daily ET tool; and a brief update regarding local SGMA activities.

B. External Agency Report: Mr. Teglia provided verbal comments supplementing a memorandum included in the Board package which provided information on the meetings and activities of various external agencies. These agencies include, but are not limited to, the Kern County Water Agency, Kern Fan Authority, Kern River Watershed Coalition Authority, Kern Water Collaborative, Kern Non-Districted Land Authority, Kern River Groundwater Sustainability Agency, the South Valley Water Resources Authority, the Water Association of Kern County, and the Integrated Regional Water Management Plan. Mr. Teglia highlighted the District's participation in a golden mussel task force organized by the Kern County Water Agency.

C. Water Banking Projects Report: Mr. Teglia provided verbal comments supplementing a memorandum included in the Board package which provided information on water banking project activity on the Kern Fan as well as District water banking project activities.

VII. ATTORNEY'S REPORT

A. VAWC Legislative Update: General Counsel Iger provided an update regarding the VAWC legislative update, which was provided in the Board packet for review.

VIII. BOARD MEMBER COMMENTS

IX. ADJOURNMENT

There being no further business, President Palla adjourned the meeting at approximately 2:56PM.

Respectfully Submitted,



Steven Teglia, General Manager

Approved by Board,



Richard Tillema, Board Secretary



Directors:

Jay Kroeker
Division 1

Laura Cattani
Division 2

Martin Milobar
President
Division 3

Tamara Johnson
Division 4

Charles (Bill) W. Wulff,
Jr.
Division 5

Royce Fast
Division 6

Gene A. Lundquist
Vice President
Division 7

Eric L. Averett
General Manager

James Ciampa
Lagerlof, LLP
General Counsel

April 24, 2026

Mr. Steve Teglia
Kern Delta Water District
501 Taft Highway
Bakersfield, CA 93307

RE: Amendment No. 4 to the Long-Term Yuba Water Purchase Program

Dear Mr. Teglia:

This is Amendment No. 4 (Amendment) to the February 14, 2012 Long-Term Yuba Water Purchase Program letter agreement (Agreement) between Kern Delta Water District (District) and the Kern County Water Agency (Agency). On March 5, 2026, the Agency entered into Amendment No. 7 to the Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating State Water Project Contractors under the Dry Year Water Purchase Program (Yuba Agreement), which is incorporated herein by reference as Exhibit A. The Agreement between your District and the Agency is hereby amended to incorporate Amendment No. 7 to the Yuba Agreement, including extension of the term of the Agreement to December 31, 2050.

If the above terms and conditions are acceptable, please sign and date both copies of this Agreement and return both copies to the Agency. A fully executed original will be returned to the District.

Sincerely,

Lauren Bauer
Water Resources Manager

Enclosures

Accepted:

Kern County Water Agency

By: _____

Title: Water Resources Manager

Date: _____

Kern Delta Water District

By: _____

Title: _____

Date: _____

Phone No. (661) 634-1400

Mailing Address

3200 Rio Mirada Drive
Bakersfield, CA 93308

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 7
TO
AGREEMENT FOR THE SUPPLY AND CONVEYANCE OF WATER
BY THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA
UNDER THE DRY YEAR WATER PURCHASE PROGRAM
BETWEEN
THE DEPARTMENT OF WATER RESOURCES
AND
THE KERN COUNTY WATER AGENCY

SWP #26802

This AMENDMENT 7 (Amendment) to the “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California Under the Dry Year Water Purchase Program” (Participation Agreement) is entered into as of March 5, 2026 between the Department of Water Resources of the State of California (DWR), pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, and the Kern County Water Agency, a public agency in the State of California, herein referred to as the “AGENCY.” DWR and the AGENCY are herein referred to separately as the “Party” and collectively as the “Parties.” Unless otherwise provided in this Amendment, the definitions in the Yuba Water Purchase Agreement, and the exhibits to that agreement shall apply to this Amendment.

RECITALS

- A. The Yuba County Water Agency (Yuba) is engaged in the Yuba River Accord initiative (Yuba River Accord) to resolve issues associated with operation of the Yuba Project in a way that protects lower Yuba River fisheries and local water-supply reliability, while providing revenues for local flood control projects, water to use for protection and restoration of Sacramento-San Joaquin Delta (Delta) fisheries, and improvements in state-wide water supply management.
- B. The Yuba River Accord includes three major elements, all of which must be in place for the Yuba River Accord to become effective: (1) the Fisheries Agreement (dated November 3, 2007) to provide higher flows for fish in the lower Yuba River under certain conditions, (2) Conjunctive Use Agreements between Yuba and its Member Units for implementing a conjunctive use and water use efficiency program; and (3) the “Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources” dated December 4, 2007 (Yuba Water Purchase Agreement), as amended.
- C. Under the Yuba Water Purchase Agreement, Yuba makes surface water available for delivery and purchase by DWR, some of which is made available through substitution of groundwater for surface flows that would otherwise be used by its Member Units.
- D. In 2007 and 2008, 21 State Water Project (SWP) Contractors and the San Luis & Delta-Mendota Water Authority (Authority) entered into agreements with DWR for the purchase and delivery of the water made available under the Yuba Water Purchase Agreement (cumulatively referred to as the Participation Agreements). The Participating SWP Contractors and the Authority are jointly referred to as “Participating Contractors.” In 2014, two additional Participating SWP Contractors entered into Participation Agreements; and in 2020, one Participating SWP Contractor declined to renew the Participation Agreements. As of 2025, there are a total of 23 Participating Contractors.
- E. Since entering into the Participation Agreements, the Participating Contractors have approved Amendments 1 through 6.
- F. The Parties desire to extend the term and other provisions of this water supply and conveyance agreement whereby DWR will purchase water under the Yuba River Accord to make available for purchase by the Participating Contractors, including the AGENCY, through this Amendment 7.

SWP #26802

Now, therefore, in accordance with the Recitals and in consideration of the terms and conditions herein, the Parties agree to the following:

1. **DEFINITIONS**

When used in this Participation Agreement, the following definitions will apply:

“Amendment” means this Amendment 7 to this Participation Agreement.

“Balanced Conditions” mean the hydrologic condition of the Delta as defined in the November 24, 1986 “Agreement between the United States of America and the State of California for Coordinated Operations of the Central Valley Project and the State Water Project” (COA), as amended.

“Banks Pumping Plant” means a SWP facility in the south Delta owned and operated by DWR.

“Carriage Water” means the water losses due to increased Delta outflow necessary to maintain baseline Delta salinity conditions as determined by DWR and Reclamation, that are associated with Storage Component Water and Net Accrued Groundwater Substitution Component Water that is exported by the Projects.

“Conference Year” means a Water Year for which the North Yuba Index is less than 500,000 acre-feet, calculated according to the procedures and formulas set forth in Exhibits 4 and 5 of the Fisheries Agreement, and using the latest available forecasts for the Water Year.

“Delivered Transfer Water” means Released Transfer Water from Yuba that is accounted as being exported by the Projects, or contributing to exports, as described in Section 5 of Exhibit 1 of the Yuba Water Purchase Agreement.

“Final Classification” means the Water Year classification for the Sacramento Valley Index in the May issue of DWR’s Bulletin 120.

“Fisheries Agreement” means the agreement, which is part of the Yuba River Accord, among Yuba, the California Department of Fish and Game (now known as Department of Fish and Wildlife), and other parties, under which Yuba operates the Yuba Project to

provide higher flows in the lower Yuba River under certain conditions to improve fisheries protection.

“Management Committee” means the committee, consisting of one representative each from Yuba, DWR, and Participating Contractors, established under Section 12 (“Technical Committee and Management Committee”) of the Yuba Water Purchase Agreement.

“Member Unit” means a “Member Unit” as defined in Section 2(g) of the 1959 Yuba County Water Agency Act.

“Net Accrued Groundwater Substitution Component Water” is the net amount of water resulting from Yuba’s groundwater substitution pumping program that is made available to the Participating Contractors. The Net Accrued Groundwater Substitution Component Water will be released and delivered by Yuba to DWR in accordance with the Yuba Water Purchase Agreement.

“Participating Contractors” means all SWP Contractors and the Authority that have executed an agreement with DWR to purchase water originating from the Yuba Water Purchase Agreement.

“Participating SWP Contractors” means all Participating Contractors that are also SWP contractors.

“Participation Agreement” means the December 21, 2007 “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California Under the Dry Year Water Purchase Program” as amended.

“Projects” means the State Water Project (SWP) and the Central Valley Project (CVP).

“Purchased Water” means the supply of Storage Component Water and Net Accrued Groundwater Substitution Component Water that has been delivered by Yuba to DWR and is accounted for as Delivered Transfer Water in the manner set forth in Exhibit 1 (“Scheduling and Accounting Principles”) of the Yuba Water Purchase Agreement. Purchased Water includes Carriage Water, water used as Delta outflow when the Export/Inflow ratio is controlling in the time period of July 1 through January 31 pursuant to the Revised Water Right Decision 1641, evaporation, and other losses assessed by DWR.

SWP #26802

“Released Transfer Water” means the average daily flows measured at the Marysville Gage that are greater than the Baseline Flows and is further described in Section 4.2 of Exhibit 1 of the Yuba Water Purchase Agreement.

“Storage Component Water” means the water supplies available to DWR pursuant to Section 6 of the Yuba Water Purchase Agreement.

“SWP Long-Term Water Supply Contract” means the long-term water supply contract between the Parties, as amended.

“Technical Committee” means the committee, consisting of technical representatives from Yuba, DWR, and Participating Contractors, established under Section 12 (“Technical Committee and Management Committee”) of the Yuba Water Purchase Agreement.

“Third Party” means an agency, entity or individual other than DWR, a Participating Contractor, a Member Unit, customer, landowner, or any other entity within the boundaries of a Participating Contractor, as defined in Section 9 (“Right of Yuba to Transfer Certain Quantities of Water to a Third Party”) of the Yuba Water Purchase Agreement.

“Third-Party Transfer” means a water transfer from Yuba to a Third Party as defined in Section 9 (“Right of Yuba to Transfer Certain Quantities of Water to a Third Party”) of the Yuba Water Purchase Agreement.

“Water Accounting Year” means the twelve-month period commencing January 1 through December 31.

“Water Year” means the twelve-month period from October 1 of one year through September 30 of the following year. For this Participation Agreement, each Water Year will be classified: (1) as "Wet," "Above Normal," "Below Normal," "Dry" or "Critical," based on the Sacramento Valley Water Year Hydrologic Classification in Figure 1 on page 188 of the State Water Resources Control Board's March 15, 2000, Revised Water-Right Decision 1641; or (2) as a "Conference Year."

“Yuba Project” means the Yuba River Development Project, including New Bullards Bar Dam and Reservoir on the North Yuba River.

“Yuba River Accord” means Yuba’s initiative as described in Recitals A and B of this Participation Agreement.

“Yuba Water Purchase Agreement” means the Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources, which is attached hereto as Attachment A, and as amended.

2. EFFECT OF THIS AMENDMENT

After December 31, 2025, this Amendment supersedes the Participation Agreement in its entirety.

3. TERM OF PARTICIPATION AGREEMENT

- A. This Participation Agreement will become effective upon execution by the Parties and will terminate on December 31, 2050.
- B. The Parties may terminate this Participation Agreement on December 31, 2030, if the Parties fail to amend this Participation Agreement pursuant to Section 4.B.3 as necessary to address amendments made to the Yuba Water Purchase Agreement regarding the quantity and pricing of water pursuant to Section 10 thereof.
- C. This Participation Agreement will remain in effect beyond the termination dates set forth above to the extent required to enable the Parties to satisfy all obligations then existing or outstanding.

4. PURCHASED WATER

A. METHODS FOR ESTABLISHING ALLOCATIONS AND SHARING OF WATER

1. DWR will make available to the Participating SWP Contractors, as a group, 50% of the following types of water: Storage Component Water and Net Accrued Groundwater Substitution Component Water.
2. DWR will make available to the Participating SWP Contractors, and the Participating SWP Contractors may accept and purchase, Storage Component Water and Net Accrued Groundwater Substitution Component Water that is made available to the Authority, if the Authority elects to not take said water.

SWP #26802

3. All water made available to the Participating SWP Contractors shall be allocated among the Participating SWP Contractors as follows:
 - a) DWR will allocate to the AGENCY its share of water that is made available to the Participating SWP Contractors based on the AGENCY'S maximum Table A amount in its SWP Long-Term Water Supply Contract as a proportion of the total Table A amounts provided under the Long-Term Water Supply Contracts of the Participating SWP Contractors.
 - b) If any Participating SWP Contractor does not request some or any of its share of the water, the remaining Participating SWP Contractors have the first right to that water, and DWR will allocate that water among them, but excluding from the calculation the maximum Table A amount of the Participating SWP Contractors not requesting their full allocation.
 - c) The above process will repeat until all water is allocated to all Participating SWP Contractors that requested Purchased Water.
4. DWR will offer to the Authority any Storage Component Water and Net Accrued Groundwater Substitution Component Water made available pursuant to this Section and remaining unrequested water after completing the above allocation process.
5. For Storage Component Water, if the AGENCY does not take some or all of the water made available to it after the May 22 initial allocation, DWR will make that water available first to the other Participating SWP Contractors and then to the Authority. If that water is not purchased by the Participating SWP Contractors or the Authority, then the AGENCY will be required to purchase the remaining amount.

B. TYPES AND PRICES OF PURCHASED WATER

1. STORAGE COMPONENT WATER

- a) For Storage Component Water that is accounted for as Purchased Water and made available to the AGENCY from January 1, 2026 through December 31, 2030, the AGENCY will pay:
 - i) Wet Year. \$75 per acre-foot in a Final Classification Wet Water Year.

- ii) Above Normal Year. \$150 per acre-foot in a Final Classification Above Normal Water Year.
 - iii) Below Normal Year. \$225 per acre-foot in a Final Classification Below Normal Water Year.
 - iv) Dry Year. \$300 per acre-foot in a Final Classification Dry Water Year (except as provided in subsection vi, below).
 - v) Critical Year. \$450 per acre-foot in a Final Classification Critical Water Year (except as provided in subsection vi, below).
 - vi) Consecutive Dry or Critical Years. \$525 per acre-foot in two or more consecutive years with either a Final Classification of Dry or Critical Water Years.
- b) Specified quantities of Storage Component Water in Dry and Critical Years (previously known as Component 2 Water) are subject to a price reduction. In 2004 during development of the Yuba River Accord, the Participating Contractors identified quantities of water they believed that the SWP and CVP would have received in Dry and Critical Years from the Yuba Project if alternative regulatory conditions of D-1644 had gone into effect (i.e., the long-term flow requirements). To address this concern, DWR and Yuba agreed to discount pricing for a portion of the Storage Component Water delivered in these year types. As a result, the price for such discounted Storage Component Water in Dry and Critical Water Years is 80% of the price of Storage Component Water agreed to by the Parties for the following quantities.
- i) In any Water Year that has a Final Classification as Dry, the first 15,000 acre-feet of Storage Component Water; and
 - ii) In any Water Year that has a Final Classification as Critical, the first 30,000 acre-feet of Storage Component Water.

2. NET ACCRUED GROUNDWATER SUBSTITUTION COMPONENT WATER

The following provisions shall apply to Net Accrued Groundwater Substitution Component Water made available by Yuba, through DWR, to

SWP #26802

the AGENCY beginning on January 1, 2016 and continuing through the term of this Participation Agreement.

- a) Except as otherwise provided herein, Net Accrued Groundwater Substitution Component Water will be accounted for in accordance with the provisions of the Yuba Water Purchase Agreement.
- b) In every year within the term of this Participation Agreement when one or more Participating Contractors desire to purchase Net Accrued Groundwater Substitution Component Water from Yuba through DWR, the Management Committee representatives of DWR, Yuba, and the Participating Contractors will convene by February 15 and conclude by March 31 to negotiate the price per acre-foot of Net Accrued Groundwater Substitution Component Water, any provisions for the Delta export priority for such water, and any other terms applicable to the transfer of Net Accrued Groundwater Substitution Component Water. If necessary, the dates herein may be adjusted if approved in writing by Yuba and DWR with written notice to the AGENCY.
- c) In every Water Accounting Year when: (1) one or more Participating Contractors desire to purchase Net Accrued Groundwater Substitution Component Water; (2) the annual negotiations referenced in Section 4.B.2.b have reached a successful conclusion calling for the purchase of such water that year; (3) the Management Committee representatives have agreed as to the terms of, and each of these representatives has recommended in writing said terms and the approval of, a letter agreement between Yuba and DWR establishing the price per acre-foot and any modified terms that will be applicable to the Net Accrued Groundwater Substitution Component Water for that Water Accounting Year; and (4) DWR and Yuba have executed said letter agreement, DWR will offer in writing to the AGENCY the opportunity to purchase Net Accrued Groundwater Substitution Component Water at the price and terms as provided in the letter agreement between DWR and Yuba.

3. POSSIBLE FUTURE ADJUSTMENTS TO QUANTITIES

If the provisions of Section 10 or 20 of the Yuba Water Purchase Agreement require changes to the quantity of water available therein, the Parties agree

that amendment of this Participation Agreement for such purposes will be a condition precedent of any amendment of the Yuba Water Purchase Agreement pursuant to Section 10 or 20 thereof. The Parties agree to meet and negotiate in good faith potential changes to this Participation Agreement.

4. PRICE FOR FALL DELIVERED WATER

Storage Component Water and Net Accrued Groundwater Substitution Component Water that is accounted as Delivered Transfer Water in the months of October and November will be priced using the determination of Water Year that was in effect before September 30 of that year.

C. THIRD-PARTY TRANSFERS PURSUANT TO SECTION 9 OF THE YUBA WATER PURCHASE AGREEMENT

The Yuba Water Purchase Agreement provides for the sale of water to Third Parties under the terms outlined in Section 9 (“Right of Yuba to Transfer Certain Quantities of Water to a Third Party”) of the Yuba Water Purchase Agreement. So long as a Third-Party Transfer is carried out consistent with the accounting provisions of Exhibit 1 for Released Transfer Water during Balanced Conditions in the Yuba Water Purchase Agreement, the AGENCY will not object based on the use of the transfer water accounting provisions of Exhibit 1 to such a transfer as not protective of DWR and the AGENCY as legal users of water during the time the AGENCY remains a Participating Contractor. The AGENCY also agrees that, as a Participating Contractor, it will not purchase water directly from Yuba other than through the Yuba Water Purchase Agreement.

5. REQUESTS, SCHEDULING, CONVEYANCE, AND STORAGE

Scheduling and conveyance of Purchased Water will be dependent on factors like releases by Yuba (including the flow schedule for the lower Yuba River as provided for in the Fisheries Agreement, the North Yuba Index, or the Yuba River Index), capacity of CVP and SWP facilities, and Bay-Delta conditions. To meet the goals of Section 7, the AGENCY may modify the requests in writing and DWR may update the allocation of Purchased Water without amending this Participation Agreement.

SWP #26802

A. REQUESTS FOR STORAGE COMPONENT WATER

1. On or about April 11 of each Water Accounting Year, DWR will inform the AGENCY of the potential quantity of Storage Component Water that is available to the AGENCY.
2. On or before April 18, the AGENCY will submit an initial request to DWR for Storage Component Water.
3. On or about May 22, DWR will notify the AGENCY of the quantity of Storage Component Water to be allocated to the AGENCY pursuant to Section 5.A. DWR will continue to update the allocation to reflect the latest conditions.
4. In the event that Yuba wishes to conduct the First Type of Third-Party Transfer (as described in the Yuba Water Purchase Agreement) in the months of July through November during Balanced Conditions, and Yuba notifies DWR to not back a specified quantity of Released Transfer Water into Project storage, DWR will notify the AGENCY within 5 business days after Yuba issued the notice and provide an opportunity for the AGENCY to guarantee purchase of that portion of such water allocated to the AGENCY in accordance with Section 4.A at the current year pricing regardless of whether it becomes Delivered Transfer Water. Such water, when stored in Project storage, will be released in a subsequent year to the AGENCY provided it was stored in Project storage and not spilled by flood control releases before its scheduled release. The AGENCY will pay for this allocated amount at the current year pricing regardless of whether it becomes Delivered Transfer Water in the current year.

B. REQUESTS FOR NET ACCRUED GROUNDWATER SUBSTITUTION COMPONENT WATER

1. On or about April 1 of each Water Accounting Year, DWR will notify the AGENCY of the quantity of Net Accrued Groundwater Substitution Component Water that Yuba will make available and the terms of such water, including the price per acre-foot, and any other applicable terms.
2. On or before April 11, the AGENCY will submit an initial request to DWR for the amount of Net Accrued Groundwater Substitution Component Water.

3. On or before May 14, the AGENCY may adjust the requested quantity of Net Accrued Groundwater Substitution Component Water.
4. On or before May 14, the AGENCY will commit to the final quantity of Net Accrued Groundwater Substitution Component Water to be purchased during the Water Accounting Year, but such amount will not be less than the actual amount of Net Accrued Groundwater Substitution Component Water made available between April 1 and May 15 in accordance with the accounting provisions for Net Accrued Groundwater Substitution Component Water set forth in Exhibit 1 of the Yuba Water Purchase Agreement.
5. On or about May 22, DWR will notify the AGENCY of the final quantity of Net Accrued Groundwater Substitution Component Water to be allocated to the AGENCY.
6. DWR will provide Yuba not less than 72-hours' notification for suspension or termination of groundwater pumping due to limitations on the ability to divert the Net Accrued Groundwater Substitution Component Water. In the event of such suspension or termination, the AGENCY will pay for its allocated quantity of Net Accrued Groundwater Substitution Component Water, including the amount incurred through the 72-hour notification period irrespective of whether DWR was able to divert the Net Accrued Groundwater Substitution Component Water.
7. The Parties acknowledge that Section 5.1.8 of the Yuba Accord Fisheries Agreement allows the River Management Team to schedule the release of a portion of Net Accrued Groundwater Substitution Component Water at a time when it might not be transferable. The AGENCY will not be required to pay for any portion of Net Accrued Groundwater Substitution Component Water that is released under Section 5.1.8 to the extent that it is not transferable under the accounting provisions set forth in Exhibit 1 of the Yuba Water Purchase Agreement.
8. The final allocated Net Accrued Groundwater Substitution Component Water can be reduced if Yuba Member Units pump less than the quantity in letter agreement between Yuba and DWR. The AGENCY will not be required to pay for this reduction.

SWP #26802

9. If necessary, the dates herein may be adjusted if approved in writing by Yuba and DWR with written notice to the AGENCY.

C. SCHEDULING

1. The AGENCY shall submit monthly water delivery schedules and revised monthly schedules, if any, for approval to the Division of Operation and Maintenance, Office of the Division Manager, Water Deliveries Reporting Unit, indicating timing and point of delivery requested under this Agreement with reference to SWP #26802. Monthly and revised schedules shall be sent by electronic mail to SWP-SWDS@water.ca.gov.
2. The AGENCY shall submit weekly water delivery schedules that indicate timing and point of delivery requested with reference to SWP #26802, by electronic mail by 10:00 am, Wednesday, for Monday through Sunday of next week to the following:
 - a) Water Delivery Scheduling
Water_deliv_sched@water.ca.gov
 - b) Power Management and Optimization Section
POCOptimization@water.ca.gov
 - c) Day-Ahead Scheduling Unit
Presched@water.ca.gov
 - d) Water Operations Scheduling Section
WOSS@water.ca.gov

D. CONVEYANCE

1. Purchased Water is subject to deduction of Carriage Water and other losses assessed by DWR. The conveyance of the remaining Purchased Water to the AGENCY's turnouts from the SWP Delta facilities is subject to the terms and conditions of this Participation Agreement, Article 55 of the AGENCY's SWP Long-Term Water Supply Contract, and applicable laws. Use of Purchased Water under this Participation Agreement shall be restricted to the AGENCY's service area inside SWP place of use. Delivery priorities shall be determined in accordance with Article 12(f) of the AGENCY's SWP

Long-Term Water Supply Contract, with Purchased Water being classified as non-project water.

2. The AGENCY shall be responsible for, and shall bear all risks for, all conveyance losses and other water losses, if applicable. DWR shall deduct any losses, as determined by DWR, from the amount of Purchased Water.
3. In the event that further adjustments are required, including if final Carriage Water value differs from the initial estimate, DWR may, after consulting with the AGENCY, reclassify the AGENCY's Table A water to address any discrepancies.

E. STORAGE

The storage of Purchased Water under this Participation Agreement is subject to the terms and conditions of this Participation Agreement, Article 56(c) of the AGENCY's SWP Long-Term Water Supply Contract, and applicable laws. AGENCY acknowledges that DWR solely determines the available storage capacity and such storage may not interfere with SWP operations or other SWP Contractor's contractual rights. DWR will notify AGENCY of the risk of loss of the stored Purchased Water as soon as practicable. AGENCY acknowledges that stored Purchased Water is subject to spill, actual or theoretical, as determined by DWR. No power credit will accrue to AGENCY for storage of Purchased Water.

6. INVOICING AND PAYMENTS

DWR will invoice the AGENCY and the AGENCY will submit payment to DWR based on each invoice as provided below.

A. INVOICING FOR PURCHASED WATER

1. Initial Storage Component Water Invoice: On or about May 22 (or within 10 business days of the date that DWR receives an invoice from Yuba), DWR will invoice the AGENCY for 50% of the estimated amount of Storage Component Water allocated to the AGENCY.
2. Initial Net Accrued Groundwater Substitution Component Water Invoice: On or about May 22 (or within 10 business days of the date that DWR receives an invoice from Yuba) DWR will invoice the AGENCY for 50% of the amount of Net Accrued Groundwater Substitution Component Water allocated to the AGENCY.

SWP #26802

3. Second Net Accrued Groundwater Substitution Component Water Invoice: On or about August 30 (or within 10 business days of the date that DWR receives an invoice from Yuba) DWR will invoice the AGENCY for 40% of the allocated Net Accrued Groundwater Substitution Component Water allocated to the AGENCY.
4. Final Invoice for Purchased Water: On January 17 of the next calendar year (or within 10 business days of the date that DWR receives an invoice from Yuba), DWR will invoice the AGENCY for the remaining unpaid cost for Purchased Water.

B. INVOICE FOR CONVEYANCE COSTS

DWR will invoice the AGENCY monthly for conveyance charges in accordance with Article 55 of the SWP Long-Term Water Supply contract. Specifically, the AGENCY shall pay the power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the conveyance of such water from the Delta for the year in which the Purchased Water is conveyed.

C. PAYMENTS FOR COSTS ATTRIBUTABLE TO YUBA WATER PURCHASE AGREEMENT

The Parties agree that costs DWR is obligated to pay Yuba pursuant to the Yuba Water Purchase Agreement, and that have not been identified by this Participation Agreement, will be an obligation of the Participating Contractors. If necessary, the Parties will amend this Participation Agreement to provide for invoicing and payment of such costs if not provided for herein.

D. PAYMENT TERMS AND CONDITIONS

1. The AGENCY will pay DWR within 31 days after receiving an invoice.
2. DWR will assess on the AGENCY a 1% interest rate per month from the due date until paid in full.
3. If the AGENCY disputes an invoice, the AGENCY will still pay the full invoiced amount. The AGENCY will submit a notice to DWR identifying the dispute within 31 days of receipt of the invoice. Within 21 days after DWR receives the notice, the Parties will meet and, if appropriate, obtain

assistance from the Technical Committee and Management Committee to resolve the dispute. If the Parties find that the AGENCY overpaid, DWR will apply a credit on the next invoice. If there is no resolution, the Parties will follow the dispute resolution process in Section 11.

4. Invoices will itemize any prior payments and credits, and the total due, less any additional credits.

7. EFFORTS TO MAXIMIZE THE BENEFICIAL USE OF WATER

DWR will use all reasonable efforts to maximize the amount of Purchased Water available to the Participating Contractors. Those efforts will include, but are not limited to fully exercising its rights and obligations under the Yuba Water Purchase Agreement, coordinating with Reclamation on the operations of the SWP and CVP, and storing water in SWP facilities when Delta pumping is constrained, as provided in the Yuba Water Purchase Agreement.

8. MEMBERSHIP ON COMMITTEES

DWR agrees that a representative of the Participating Contractors will be a member of the Management Committee and Technical Committee.

9. CONFERENCE YEAR PRINCIPLES

During any Conference Year, DWR will meet with Yuba and the other parties to the Fisheries Agreement and the Conjunctive Use Agreements to: (1) determine how to address the circumstances, and (2) discuss the operation of the Yuba Project during that Water Accounting Year.

10. LIABILITY

- A. DWR will not assert that the AGENCY, its directors, officers, agents or employees, are liable for damages of any nature whatsoever arising out of any actions or omissions by DWR, its Director, officers, agents or employees, related to DWR's performance of this Participation Agreement, where such liability is caused by an act, error or omission of DWR, its Director, officers, agents or employees.
- B. The AGENCY will not assert that DWR, its Director, officers, agents or employees, are liable for damages of any nature whatsoever arising out of any actions or omissions by the AGENCY, its directors, officers, agents or

SWP #26802

employees, related to the AGENCY's performance of this Participation Agreement, where such liability is caused by an act, error or omission of the AGENCY, its director, officers, agents or employees.

- C. To the extent permitted by California law, the AGENCY will indemnify, defend and hold DWR, its Director, officers, agents and its employees safe and harmless from any and all, claims, judgments, damages, penalties, costs, liabilities and losses (including without limitation, sums paid in settlement of claims, actual attorney's fees paralegal fees, consultant fees, engineering fees, expert fees, and any other professional fees) that arise from or are related in any way to the AGENCY's activities or performance under this Participation Agreement that are under the exclusive control of the AGENCY, including but not limited to the release, conveyance, use or distribution of water by the AGENCY for purposes of this Participation Agreement.
- D. To the extent permitted by California law, DWR will indemnify, defend and hold the AGENCY, its directors, officers, agents and its employees safe and harmless from any and all, claims, judgments, damages, penalties, costs, liabilities and losses (including without limitation, sums paid in settlement of claims, actual attorney's fees, paralegal fees, consultant fees, engineering fees, expert fees, and any other professional fees) that arise from or are related in any way to DWR's activities or performance under this Participation Agreement that are under the exclusive control of DWR, including but not limited to the release, conveyance, use or distribution of water by DWR for purposes of this Participation Agreement.

11. DISPUTE RESOLUTION

- A. Should any material disputes arise concerning any provision of this Participation Agreement, or the rights and obligations of the Parties hereunder, including those involving possible termination or those that might cause the initiation of any administrative or judicial proceeding to enforce or interpret this Participation Agreement, the Party that believes a dispute exists will notify the other Party, and the Parties will promptly meet and confer to attempt to resolve the perceived dispute.
- B. If the process described in the preceding subsection fails to resolve the dispute within 30 days, the Parties will submit the dispute to a mediator who has

experience in water-related disputes. The costs of any such mediation will be borne equally by the Parties. Initiation of this mediation process will be through written notice by one Party to the other Party. The Parties reserve all of their other remedies that may be provided by law or equity in the event that such mediation fails to resolve a dispute. The Parties, in consultation with the mediator, will use their best efforts to resolve the dispute within 30 days. Under no circumstances, however, will mediation under this Section result in a requirement that diminishes, limits or contravenes the discretion, authority or any delegated authority of the Director of DWR or the AGENCY under State law.

- C. If mediation fails to resolve the dispute, and prior to commencing any legal action to resolve the dispute, the Party proposing to commence legal action will provide the other Party 30 days' written notice of such action, provided that such notice will not be required where a delay in commencing an action would prejudice the interests of the Party that intends to file suit. During the 30-day notice period, the Parties will continue to attempt to resolve the dispute.

12. NOT A PRECEDENT

The terms and conditions set forth in this Participation Agreement are not intended to set a precedent for any future contractual arrangements for conveying non-SWP water by DWR to the AGENCY.

13. PAYMENTS, NOTICES, OR OTHER COMMUNICATIONS

The time for providing any payments, notices, or other communications specified in this Participation Agreement may be extended within the term of this Participation Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Participation Agreement. All payments, notices, or other communications required under this Participation Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (a) served personally on the Party to whom notice is to be given; (b) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (c) on the third day after mailing, if mailed to the Party to whom payment, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representatives of the Party set forth below.

DWR:

SWP #26802

Assistant Division Manager of Water Management
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001
cc: swpwatertransfers@water.ca.gov

AGENCY:

Lauren Bauer
Water Resources Manager
3200 Rio Mirada Drive
Bakersfield, CA – 93308

A Party may notify the other Party in writing of a change in its designated representatives, without requiring an amendment to this Participation Agreement. When requested, unless otherwise specified in this Participation Agreement, DWR will provide to the AGENCY copies of any and all communications it sends or receives pursuant to the terms of the Yuba Water Purchase Agreement. These communications will be shared as soon as possible, but not later than 14 days after DWR receives, or sends, such communications to Yuba, the Authority, and/or other Participating SWP Contractors.

14. SIGNATORIES' AUTHORITY

The signatories to this Participation Agreement represent that they have authority to execute this Participation Agreement and to bind the Party on whose behalf they execute this Participation Agreement.

The Parties agree that this Participation Agreement will be executed using Docusign by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature. All Parties will receive an executed copy of this Agreement via Docusign after all Parties have signed.

15. COUNTERPARTS OF THIS PARTICIPATION AGREEMENT

This Participation Agreement may be signed in any number of counterparts by the Parties, each of which will be deemed to be an original, and all of which together will be deemed to one and the same instrument. This Participation Agreement, if executed in counterparts, will be valid and binding on a Party as if fully executed all in one copy.

16. BINDING ON SUCCESSORS/ASSIGNMENT

This Participation Agreement will bind and inure to the benefit of the respective successors and assigns of the Party, except that, none of the obligations of the Parties set forth in this Participation Agreement will be assigned without the prior, written approval of the other Party, which approval will not unreasonably be withheld.

17. NO THIRD-PARTY BENEFICIARIES

This Participation Agreement will not be construed to create any third-party beneficiaries, except as set forth in this section. This Participation Agreement is for the sole benefit of the Parties, their respective successors and assigns, and no other person or entity will be entitled to rely on or receive any benefit from this Participation Agreement or any of its terms.

18. AMENDMENTS

- A. This Participation Agreement may be amended or modified only by written agreement approved and executed by the Parties.
- B. Prior to any amendment of this Participation Agreement, the Parties will meet and confer with the other Participating SWP Contractors and the Authority. The Parties will not agree to any amendment to this Participation Agreement that would adversely affect the rights and obligations of the Participating SWP Contractors under each of their respective “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating SWP Contractors under the Dry Year Water Purchase Program” or the Authority under its “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the San Luis & Delta-Mendota Water Authority under the Dry Year Water Purchase Program.”
- C. Prior to any amendment of any “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating SWP Contractors Under the Dry Year Water Purchase Program”, DWR will meet and confer with the AGENCY. DWR will not agree to any amendments to any “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating SWP Contractors Under the Dry Year Water Purchase Program” or the “Agreement for the Supply and Conveyance of Water by the Department

SWP #26802

of Water Resources of the State of California to the San Luis & Delta-Mendota Water Authority under the Dry Year Water Purchase Program” that would adversely affect the rights and obligations under this Participation Agreement.

- D. DWR will meet and confer with the AGENCY, the other Participating SWP Contractors and the Authority before agreeing to any proposed changes, amendments, or supplements to the Yuba Water Purchase Agreement. DWR will not agree to any changes, amendments, or supplements to the Yuba Water Purchase Agreement or its Exhibits that would be inconsistent with or adversely affect the Parties’ rights and obligations under this Participation Agreement, any other “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the Participating SWP Contractors Under the Dry Year Water Purchase Program” or under the “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the San Luis & Delta-Mendota Water Authority under the Dry Year Water Purchase Program.”

19. OPINIONS AND DETERMINATIONS

Where the terms of this Participation Agreement provide for action to be based upon the opinion, determination, approval or review of either Party, such terms are not intended to be, and will not be construed as permitting such actions to be arbitrary, capricious or unreasonable. Any opinion, determination, approval or review required of a Party under this Participation Agreement will be provided in a timely manner.

20. REASONABLE COOPERATION

The Parties will reasonably cooperate with each other, including the execution of all necessary documents and providing assistance in obtaining approvals and permits from regulatory agencies required to perform the obligations under this Participation Agreement and to carry out the purpose and intent of this Participation Agreement.

21. CONSTRUCTION AND INTERPRETATION

This Participation Agreement is entered into freely and voluntarily. This Participation Agreement has been arrived at through negotiation, and each Party has had a full and fair opportunity to revise the terms of this Participation Agreement. Consequently, the

normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Participation Agreement.

22. COMPLETE CONTRACT

This Participation Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of the terms of this Participation Agreement among the Parties concerning the subject matter, and supersedes all prior negotiations, representations or agreements, either oral or written, that may be related to the subject matter of this Participation Agreement, except as to those other agreements that are expressly referred to in this Participation Agreement.

23. DETERMINATION OF UNENFORCEABLE PROVISIONS

If any term or provision of this Participation Agreement is deemed invalid or unenforceable by any court of final jurisdiction, the Parties will meet and attempt to address this situation pursuant to the provisions of Section 11 of this Participation Agreement.

24. WAIVER

The waiver at any time by a Party of its rights with respect to a default or other matter arising in connection with this Participation Agreement will not be deemed a waiver with respect to any other default or matter.

25. TIME

Time is of the essence in this Participation Agreement. Any date specified in this Participation Agreement may be changed with the written consent of the Parties.

26. APPLICABLE LAW

This Participation Agreement will be construed under and will be deemed to be governed by the laws of the State of California.

27. VENUE

Any appropriate County under California law will be venue for any state court litigation concerning the enforcement or interpretation of this Participation Agreement.

SWP #26802

28. REMEDIES NOT EXCLUSIVE

The remedies provided in this Participation Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or equity. The exercise by the Party of any remedy under this Participation Agreement will be without prejudice to the enforcement of any other remedy.

29. OFFICIALS NOT TO BENEFIT

No member or delegate to Congress, Resident Commissioner, or Federal or State official will be admitted to any share or part of this Participation Agreement or to any benefit that may arise therefrom.

30. STANDARD CLAUSES

With respect to the mutual obligations of the Parties under this Participation Agreement, the Parties will comply with the Standard Clauses as shown on Attachment B ("State of California Standard Clauses") to this Participation Agreement for the State of California, Contracts with Public Entities.


31. ATTACHMENTS INCORPORATED

Each attachment to which reference is made is deemed incorporated in this Participation Agreement, whether or not actually attached.

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

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA DEPARTMENT
OF WATER RESOURCES



General Counsel



Director

3/5/2026

Date

3/5/2026

Date

Approved as to legal form
and sufficiency:

KERN COUNTY WATER AGENCY

Name
Counsel



Lauren Bauer
Water Resources Manager

Date

2/11/2026

Date

ATTACHMENTS:

Attachment A: Amendment 8 to the Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources

Attachment B: DWR Standard Clauses

State of California
The Resources Agency
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 8
TO
AGREEMENT FOR THE LONG-TERM PURCHASE OF WATER
FROM YUBA COUNTY WATER AGENCY
BY THE DEPARTMENT OF WATER RESOURCES
BETWEEN
THE DEPARTMENT OF WATER RESOURCES
AND
THE YUBA COUNTY WATER AGENCY

SWP #26851

This AMENDMENT 8 (Amendment) to the December 4, 2007 “Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources,” as amended (Agreement), is entered into as of _____ between the Department of Water Resources of the State of California (DWR), 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, and Yuba County Water Agency (Yuba), pursuant to the Yuba Act (California Statutes 1959, Chapter 788, as amended) and other applicable laws of the State of California.

RECITALS

- A. DWR operates and maintains the SWP pursuant to the laws of the State of California, involving the development and conveyance of water supplies to water supply agencies throughout the State of California.
- B. Yuba is a public agency created and existing pursuant to the provisions of the Yuba Act. Yuba owns and operates the Yuba River Development Project, including the Yuba Project.
- C. Since entering into the Agreement, the Parties have approved Amendments 1 through 7.
- D. Since its inception, the Yuba River Accord and this Agreement have provided numerous benefits, including contributing to: (1) protective instream flows for salmon and steelhead, and improved habitat conditions in the lower Yuba River; (2) local and statewide water-supply reliability, especially during dry-year conditions; (3) sustainable groundwater management in the conjunctive use of Yuba River surface water and groundwater in collaboration with the Member Units and their landowners; (4) providing revenues to fund local flood-risk reduction measures, improved water quality for disadvantaged communities, water supply management, watershed resilience and water conservation projects; and (5) resolving regulation of instream flow requirements for the lower Yuba River.
- E. The Parties desire to extend the term and other provisions of the Agreement through this Amendment 8.
- F. YWA has filed a petition with the State Water Resources Control Board for extension of approval of the authorized points of diversion and place of use as described in the Long-Term Petition through December 31, 2050. YWA has also filed a separate Short-Term Petition with the State Board for extension of these approvals through December 31, 2026, in the event that the petition for the long-term approval has not become effective prior to December 31, 2025. Water transfers under this Agreement will be subject to the provisions of the applicable State Board order authorizing such water transfers.

SWP #26851

Now, therefore, in accordance with these recitals and in consideration of the terms and conditions herein, the Parties agree to the following:

AGREEMENT

1. DEFINITIONS

When used in this Agreement, the following definitions will apply:

“Accrued Groundwater Substitution Component Water” means the amount of surface water accounted at the Marysville Gage that results from Yuba’s groundwater substitution pumping program established by Yuba and its Member Units under their Conjunctive Use Agreements for making available Groundwater Substitution Component Water.

“Agreement” means the December 4, 2007 “Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources” as amended; the term of which would be extended through December 31, 2050 under this Amendment.

“Amendment” means this Amendment 8 to this Agreement.

“Authority” means the San Luis & Delta-Mendota Water Authority.

“Balanced Conditions” mean the hydrologic condition of the Delta as defined in the November 24, 1986 “Agreement between the United States of America and the State of California for Coordinated Operations of the Central Valley Project and the State Water Project” (COA), as amended.

“CCWD POD” means the point of diversion for Contra Costa Water District, as described in the January 28, 2025 State Board Order Approving Temporary Change Involving the Transfer of up to 25,000 Acre-Feet of Water to Contra Costa Water District, that approved through December 31, 2025, the CCWD POD as authorized points of rediversion for Yuba transfer water.

“CEQA” means the California Environmental Quality Act.

“Conference Year” means a Water Year for which the North Yuba Index is less than 500,000 acre-feet, calculated according to the procedures and formulas set forth in Exhibits 4 and 5 of the Fisheries Agreement, and using the latest available forecasts for the Water Year.

“Conjunctive Use Agreements” means those agreements (if any) for implementing a conjunctive use and water use efficiency program between Yuba and a sufficient number of Member Units that Yuba determines is satisfactory for Yuba to meet Yuba’s obligations under this Agreement, the Fisheries Agreement, and the Yuba Act.

“CVP” means the Central Valley Project, operated by Reclamation.

“Decision 1644” means Revised Water-Right Decision 1644 of the State Board, adopted on July 16, 2003.

“Delivered Transfer Water” means Released Transfer Water that is accounted as being exported by the Projects, or contributing to exports, as described in Section 5 of Exhibit 1.

“DWR” means the Department of Water Resources of the State of California.

“ESA” means the federal Endangered Species Act of 1973, as amended (16 U.S.C. sections 1531-1544).

“Feather River Diversion Facility” means an intake structure, pumping facilities, a fish screen that meets State and Federal fish screen criteria, and related facilities that Yuba may consider constructing at some future time at or below the confluence of the Yuba River and the Feather River for the diversion of water under Yuba’s existing water rights for use within Yuba County. Yuba has no current plans to develop or construct the Feather River Diversion Facility. If this project were developed, the Feather River Diversion Facility would be added as a point of rediversion under Yuba’s existing water rights. On a real-time basis, diversions by Yuba at the Feather River Diversion Facility: (1) would not exceed the quantity of water that would have been available to Yuba for diversion from Yuba River flows upstream of its confluence with the Feather River; (2) when added to the quantity of water diverted by Yuba at Yuba’s Daguerre Point of Diversion, would not exceed the quantities of water under Yuba’s water rights that Yuba had diverted to beneficial use under applicable provisions of law (including Chapter 1 of Part 1 of Division 2 of the Water Code) prior to the initiation of water diversions at the Feather River Diversion Facility; and (3) would not cause adverse impacts to, or interfere with, DWR or Reclamation’s operations of the SWP and CVP, or cause DWR or Reclamation to have to modify operations of their respective SWP or CVP facilities.

“FERC” means the Federal Energy Regulatory Commission.

“FERC License” means the license, as amended, issued to Yuba by FERC for the operation of the power facilities of the Yuba Project, the term of which expired on April 30, 2016.

SWP #26851

“FERC Annual License” means one or more annual licenses issued to Yuba by FERC for the operation of the power facilities of the Yuba Project following the expiration of the term of the FERC License.

“FERC Long-Term License” means the long-term license issued to Yuba by FERC for the operation of the power facilities of the Yuba Project following the expiration of the term of the FERC License and the last FERC Annual License.

“Fisheries Agreement” means the agreement, which is part of the Yuba River Accord, among Yuba, the California Department of Fish and Game (now known as the California Department of Fish and Wildlife), and other parties, under which Yuba operates the Yuba Project to provide higher flows in the lower Yuba River under certain conditions to improve fisheries protection.

“Final Classification” means the Water Year classification for the Sacramento Valley Index in the May issue of DWR’s Bulletin 120.

“Force Majeure Event” means any: (1) flood; (2) earthquake; (3) failure of the California Aqueduct, the Delta-Mendota Canal, levees, other conveyance facilities, or other major components of the SWP, CVP or the Yuba Project; (4) act of God (other than drought); or (5) any other event (other than a Regulatory Action) beyond the reasonable control of DWR, Reclamation, or Yuba that significantly affects the ability to divert or use Water delivered by Yuba under this Agreement, or that significantly affects Yuba’s ability to deliver Water under this Agreement while also meeting its obligations to its Member Units or its obligations under the Fisheries Agreement.

“Freeport POD” means the point of diversion for the Freeport Regional Water Project, as described in the June 9, 2014 Order of the State Board that approved, through December 31, 2025, the Freeport POD as an authorized point of rediversion for Yuba transfer water.

“Groundwater Substitution Transfer Monitoring and Operations Program” means the program, set forth in Exhibit 3 to this Agreement, pursuant to which Yuba will monitor and report groundwater pumping to implement this Agreement.

“Groundwater Substitution Component Water” means the quantity of Released Transfer Water that Yuba makes available from releases from New Bullards Bar Reservoir as a result of Yuba’s groundwater substitution pumping program, and that is not related to releases for the Storage Component of Released Transfer Water. Groundwater Substitution Component Water will be made available under the

Conjunctive Use Agreements by Member Units forgoing surface water deliveries and instead pumping groundwater as a replacement water supply for local irrigation needs.

“Long-Term Petition” means the petition that YWA has filed with the State Water Resources Control Board for extension of the Yuba River Accord water transfer program through December 31, 2050.

“Management Committee” means the committee, consisting of one representative each from Yuba, DWR, and Participating Contractors, established under Section 12 (“Technical Committee and Management Committee”) of this Agreement.

“Member Units” means a “Member Unit” as defined in Section 2(g) of the Yuba Act.

“Net Accrued Groundwater Substitution Component Water” is the remaining amount of Accrued Groundwater Substitution Component Water to be paid for after being reduced by the Streamflow Depletion Factor. This amount is a payment provision, and the total Accrued Groundwater Substitution Component Water will be released and delivered in accordance with Section 7 (“Groundwater Substitution Component Water”) of this Agreement.

Net Accrued Groundwater Substitution Component = Accrued Groundwater Substitution Component Water × (1 – SDF).

“North Yuba Index” means the index used to determine the applicable Fisheries Agreement flow schedule for the Lower Yuba River. This index is defined in Exhibit 4 of the Fisheries Agreement.

“Participating Contractors” means all SWP contractors and CVP contractors who have executed an agreement with DWR to be entitled to receive Water under the Agreement.

“Parties” means DWR and Yuba.

“Projects” means the SWP and the CVP.

“Reclamation” means the United States Department of the Interior, Bureau of Reclamation.

“Regulatory Action” means a court order, regulatory action or change in applicable law that significantly affects the Parties’ or Reclamation’s ability to divert or use Water, or that significantly affects Yuba’s ability to deliver Water while also meeting its obligations to its Member Units or its obligations under the Fisheries Agreement.

SWP #26851

“Released Transfer Water” means the average daily flows measured at the Marysville Gage that are greater than the Baseline Flows. “Released Transfer Water” is further described in Section 4.2 of Exhibit 1.

“Short-Term Petition” means the petition that YWA has filed with the State Board for extension of the Yuba River Accord water transfer program through December 31, 2026.

“State Board” means the State Water Resources Control Board.

“State Board Order – 2008” means State Board Corrected Order WR 2008-0014, which amended Yuba’s Water Right Permits 15026, 15027 and 15030 to include, with some modifications, the streamflow requirements in the Fisheries Agreement and adding, through December 31, 2025, the SWP and CVP Delta diversion facilities as points of rediversion, and the SWP and CVP service areas to the place of use, under Permit 15026.

“State Board Order – Long-Term Petition” means the pending State Board Order that is expected to approve Yuba Water’s Long-Term Petition for extension of the Yuba River Accord water transfer program through December 31, 2050 under Yuba’s Water Right Permits 15026, 15027 and 15030, including approving the SWP and CVP Delta diversion facilities, and the Freeport and the CCWD POD as authorized points of rediversion, the SWP and CVP service areas as an authorized place of use, and municipal use as an authorized purpose of use for Yuba transfer water.

“Streamflow Depletion Factor” (SDF) is a percent reduction in the amount of Accrued Groundwater Substitution Component Water that will be delivered to Participating Contractors and paid to Yuba. This factor is used to address DWR’s and Reclamation’s concerns of reduced available supply to their projects from reduced streamflow attributable to groundwater recharge induced by pumping of groundwater to produce Accrued Groundwater Substitution Component Water.

“Storage Component Water” means the quantity of Released Transfer Water that Yuba makes available from storage releases from New Bullards Bar Reservoir, and which storage is not a result of storage releases resulting from Groundwater Substitution Component operations.

“Stored Released Transfer Water” means the stored water in Projects’ upstream reservoirs, and is further defined in Section 4.3 of Exhibit 1.

“SWP” means the State Water Project operated by DWR. The SWP is also known as the State Water Facilities, as defined in California Water Code section 12934(d).

“Technical Committee” means the committee, consisting of technical representatives from Yuba, DWR, and Participating Contractors, established under Section 12 (“Technical Committee and Management Committee”) of this Agreement.

“Water” means Storage Component Water or Groundwater Substitution Component Water as those terms are defined in Exhibit 1 Accounting Principles that is delivered by Yuba in a manner consistent with the provisions of Section 10 (“General Provisions Applicable to Water”) of this Agreement.

“Water Accounting Year” means the twelve-month period from January 1 to December 31. The Water Accounting Year will be used to account for Water.

“Water Year” means the twelve-month period from October 1 of one year through September 30 of the following year. For this Agreement, each Water Year will be classified: (1) as “Wet,” “Above-Normal,” “Below-Normal,” “Dry” or “Critical,” based on the Sacramento Valley Water Year Hydrologic Classification in Figure 1 on page 188 of the State Board’s March 15, 2000, Revised Water-Right Decision 1641; or (2) as a “Conference Year,” based on the procedures and formulas set forth in Exhibits 4 and 5 of the Fisheries Agreement, using the latest available forecast for the Water Year.

“Yuba” means the Yuba County Water Agency.

“Yuba Act” means the Yuba County Water Agency Act, California Statutes 1959, Chapter 788, as amended.

“Yuba Project” means the Yuba River Development Project, including New Bullards Bar Dam and Reservoir on the North Yuba River.

“Yuba River Accord” means a settlement among a broad coalition of agricultural, environmental and fisheries organizations, including state and federal agencies, that resolved decades of controversy and provides meaningful benefits for both fish and wildlife purposes, and water supply reliability for irrigation, hydropower generation and recreation. The Yuba Accord includes three separate but related agreements: the Fisheries Agreement, this Agreement and the Conjunctive Use Agreements.

2. EFFECT OF THIS AMENDMENT

This Amendment supersedes the Agreement in its entirety.

SWP #26851

3. TERM OF AGREEMENT

This Agreement will terminate on December 31, 2050, or when all obligations under this Agreement have been satisfied, whichever is later, unless this Agreement is terminated earlier as provided herein. This Agreement is subject to renewal or extension on terms agreed to by the Parties.

4. EFFECTIVE DATE OF THIS AMENDMENT

The Agreement will remain in effect through December 31, 2025, after which it will be superseded by this Amendment. This Amendment will become effective when it is executed by the Parties.

5. ACTIONS TAKEN BY YUBA TO MAKE WATER AVAILABLE

A. Yuba Act

In accordance with Section 5.2 of the Yuba Act, all sales of Water are subject to the prior right to the use of such water or Yuba facilities by or for the Member Units. Yuba has taken the following measures to provide quantities of Water to DWR as provided in this Agreement, for the term of this Agreement:

1. Yuba has implemented the Yuba River Accord to provide benefits to lower Yuba fisheries under the Accounting Principles for Released Transfer Water that have been agreed to by Yuba, DWR, and Reclamation; and
2. Yuba has entered into the Conjunctive Use Agreements under which the contracting Member Units have agreed to provide groundwater supplies in substitution for surface water supplies to assist Yuba in implementing this Agreement, to the extent (if any) determined by Yuba to be satisfactory for Yuba to meet Yuba's obligations under this Agreement, the Fisheries Agreement, and the Yuba Act; and
3. Yuba has established and is implementing a groundwater monitoring program within its service area to ensure that the groundwater supply developed pursuant to the Conjunctive Use Agreements is within the long-term safe yield of the affected aquifer; and
4. The Board of Directors of Yuba adopted a resolution making findings concerning Yuba's compliance with Section 5.2 of the Yuba Act, and determining that the Water exceeds the needs of its Member Units and that Yuba can and will perform its obligations under this Agreement.

B. Feather River Diversion Facility

In addition, Yuba may consider the installation and operation of the Feather River Diversion Facility at some future time in the event that Yuba determines that operation of the Feather River Diversion Facility would assist Yuba in making water supplies available within Yuba County. Subject to Yuba agreeing to operate this facility in the manner described in the definition of Feather River Diversion Facility, DWR will not oppose the installation and operation of the Feather River Diversion Facility for this purpose, and will not object to Yuba obtaining regulatory permits and approvals for the Feather River Diversion Facility.

6. STORAGE COMPONENT WATER

A. Quantity

Yuba will provide Storage Component Water in varying quantities each Water Accounting Year based on hydrologic and regulatory conditions that affect storage operations of the Yuba Project. The Storage Component Water quantity will be determined through application of the Accounting Principles of Exhibit 1. Yuba will periodically inform DWR of anticipated quantities of Storage Component Water based on forecasts as described in Exhibit 1. The quantities of Storage Component Water delivered by Yuba to DWR during all Water Accounting Years that include the term of the FERC Long-Term License or any FERC Annual License will be subject to Section 10 ("General Provisions Applicable to Water") of this Agreement.

B. Scheduling

On or about April 10 of each Water Accounting Year, or as soon thereafter as practicable, the Parties will agree on a proposed delivery schedule for Storage Component Water. The proposed schedule may be revised periodically thereafter, and the Parties will agree on a final schedule no later than May 21. The final schedule will be updated to accommodate any changes in the North Yuba Index or the Yuba River Index and may be adjusted to account for changes in Bay-Delta conditions, including hydrologic or regulatory conditions, that affect the delivery of Water, and for changes in the flow schedule for the lower Yuba River as provided for in the Fisheries Agreement. The scheduling of Water, and any adjustments to the schedule, will be in accordance with the water scheduling and accounting provisions set forth in Exhibit 1 ("Scheduling and Accounting Principles") of this Agreement.

SWP #26851

C. Pricing

1. DWR will purchase all Storage Component Water that is accounted for as Delivered Transfer Water under the accounting rules set forth in Exhibit 1 to the Agreement, except that DWR is not required to pay for Storage Component Water that Yuba transfers to a Third-Party as provided in Section 9 (“Right of Yuba to Transfer Certain Quantities of Water to a Third-Party”) of this Agreement. The Parties expect that DWR will enter into agreements with the Participating Contractors to provide funding for such payments.
2. Specified quantities of Storage Component Water in Dry and Critical Water Years (previously known as Component 2 Water) are subject to a price reduction. In 2004 during development of the Yuba River Accord, the Participating Contractors identified quantities of water they believed that the SWP and CVP would have received in Dry and Critical years from the Yuba Project if alternative regulatory conditions of D-1644 had gone into effect (i.e., the long-term flow requirements). To address this concern, the Parties agreed to discount pricing for a portion of the Storage Component Water delivered in these year types. As a result, the price for such discounted Storage Component Water in Dry and Critical Water Years is 80% of the price of Storage Component Water agreed to by the Parties for the following quantities of Water:
 - a. In any Water Year that has a Final Classification as Dry, the first 15,000 acre-feet of Storage Component Water; and
 - b. In any Water Year that has a Final Classification as Critical, the first 30,000 acre-feet of Storage Component Water.
3. DWR will make the following payments to Yuba for Storage Component Water made available through December 31, 2025, except that, the payment for discounted Storage Component Water, as described in subsection C.2 above, will be 80% of these amounts:
 - a. Wet Year. \$64 per acre-foot in a Final Classification Wet Water Year.
 - b. Above Normal Year. \$128 per acre-foot in a Final Classification Above Normal Water Year.
 - c. Below Normal Year. \$191 per acre-foot in a Final Classification Below Normal Water Year.

- d. Dry Year. \$255 per acre-foot in a Final Classification Dry Water Year (except as provided in subsection f, below).
 - e. Critical Year. \$383 per acre-foot in a Final Classification Critical Water Year (except as provided in subsection f, below).
 - f. Consecutive Dry or Critical Years. \$447 per acre-foot in two or more consecutive Final Classification Dry or Critical Water Years.
4. DWR will make the following payments to Yuba for Storage Component Water made available from January 1, 2026 through December 31, 2030, except that, the payment for discounted Storage Component Water, as described in subsection C.2 above, will be 80% of these amounts:
- a. Wet Year. \$75 per acre-foot in a Final Classification Wet Water Year.
 - b. Above Normal Year. \$150 per acre-foot in a Final Classification Above Normal Water Year.
 - c. Below Normal Year. \$225 per acre-foot in a Final Classification Below Normal Water Year.
 - d. Dry Year. \$300 per acre-foot in a Final Classification Dry Water Year (except as provided in subsection f, below).
 - e. Critical Year. \$450 per acre-foot in a Final Classification Critical Water Year (except as provided in subsection f, below).
 - f. Consecutive Dry or Critical Years. \$525 per acre-foot in two or more consecutive Final Classification Dry or Critical Water Years.
5. Yuba and DWR will negotiate in good faith the quantity and pricing provisions applicable to Storage Component Water made available from and after January 1, 2031.
6. Storage Component Water that is accounted as delivered in October and November will be priced based on Water Year that was in effect before September 30 of that same year.

D. Invoicing

1. For each Water Accounting Year in which Storage Component Water is being delivered to DWR, Yuba will submit two invoices to DWR. Yuba will

SWP #26851

submit the first invoice to DWR on or after May 22 for 50% of the amount due for Storage Component Water scheduled to be delivered during the current Water Accounting Year to DWR pursuant to this Agreement. By January 7 of the subsequent year, Yuba will submit the second invoice to DWR for the remaining amount due for Storage Component Water delivered to DWR in the previous Water Accounting Year pursuant to this Agreement. The invoices will contain all of the information and be transmitted to DWR as set forth in Section 8 (“Invoicing Details”) of this Agreement.

2. DWR will pay Yuba the invoicing amount within 75 days of the date that the DWR Contract Manager receives an invoice containing all of the information required by Section 8.A of this Agreement.

7. GROUNDWATER SUBSTITUTION COMPONENT WATER

A. Member Unit Approval

Yuba is not required to provide Groundwater Substitution Component Water for any purpose under the Agreement except upon pricing and other terms that are agreed to by Yuba and the Member Units, which are also agreed to by DWR and the Participating Contractors.

Yuba, in consultation with its Member Units, may agree with DWR to apply an SDF to the Groundwater Substitution Component Water. If an SDF is applied to the Groundwater Substitution Component Water, then Yuba will only invoice for the remaining volume after the reduction by SDF has been applied.

B. Price Negotiation

In every year that DWR desires to purchase Accrued Groundwater Substitution Component Water, representatives of DWR, Yuba, the Member Units and the Participating Contractors will convene by February 15 and conclude by March 31 as the Management Committee to negotiate the price per acre-foot of Accrued Groundwater Substitution Component Water, any provisions for the Delta export priority for such water and any other terms applicable to the Accrued Groundwater Substitution Component Water. Such other terms may include an SDF which would reduce the amount of Accrued Groundwater Substitution Component Water for payment. The 30,000 acre-feet of Groundwater Substitution Component Water that Yuba is required to provide in a Schedule 6 Year under term 1a of the State Board Order – 2008 will be Accrued Groundwater Substitution Component Water for all purposes under the

Agreement. The dates herein may be adjusted if approved in writing by Yuba and DWR.

In every Water Accounting Year when: (1) one or more Participating Contractor(s) desire to purchase Accrued Groundwater Substitution Component Water; (2) the annual negotiations referenced above have reached a successful conclusion calling for the purchase of such water in that year; (3) the Management Committee representatives for Yuba and the Participating Contractors have agreed as to the terms of, and each of these representatives has recommended in writing said terms and the approval of a letter agreement between Yuba and DWR establishing the price per acre-foot, the SDF, and any other modified terms that will be applicable to the Accrued Groundwater Substitution Component Water for that Water Accounting Year; and (4) DWR and Yuba have executed said letter agreement, DWR will offer in writing to Participating Contractors the opportunity to purchase Accrued Groundwater Substitution Component Water at the price and terms as provided in the letter agreement between DWR and Yuba.

C. Quantity

Yuba will notify DWR by April 1 of each year during the term of this Agreement of the amount of Accrued Groundwater Substitution Component Water that Yuba will make available during the Water Accounting Year. By April 15, DWR will notify Yuba of the amount of Accrued Groundwater Substitution Component Water it commits to purchase based on requests by Participating Contractors. DWR may adjust this amount, up or down, on or before May 15, and on May 15 DWR will commit to the final quantity of Accrued Groundwater Substitution Component Water to be purchased during the Water Accounting Year, but such amount will not be less than the actual amount of Accrued Groundwater Substitution Component Water made available between April 1 and May 15 for Groundwater Substitution Component Water in accordance with the accounting provisions for Groundwater Substitution Component Water set forth in Exhibit 1 of the Agreement. The dates herein may be adjusted if approved in writing by Yuba and DWR.

Consistent with the water accounting principles set forth in Exhibit 1 to the Agreement, Yuba agrees that making the Groundwater Substitution Component Water available in any Water Accounting Year will not affect the quantity of Storage Component Water that Yuba makes available in that year or thereafter.

SWP #26851

D. Scheduling

1. Yuba will confirm on a monthly basis the quantities of the Accrued Groundwater Substitution Component Water and the quantities of Groundwater Substitution Component Water released as Released Transfer Water, in accordance with the accounting provisions for Groundwater Substitution Component Water set forth in Exhibit 1 of the Agreement.
2. DWR will provide Yuba with not less than 72-hours' notification for suspension or termination of groundwater pumping due to limitations on the ability of DWR to divert and use the Groundwater Substitution Component Water. In the event of such a suspension or termination of Groundwater Substitution Component Water, DWR will pay for the quantity of Accrued Groundwater Substitution Component Water up to and including through the 72-hour notification of suspension or termination (i.e., DWR will pay for the quantity of Net Accrued Groundwater Substitution Component Water through the notice period irrespective of whether DWR was able to divert and use the Accrued Groundwater Substitution Component Water).
3. Pursuant to the notification described in Section 7.D.2 above, if the Management Committee so determines, DWR will require any Participating Contractor requesting Groundwater Substitution Component Water to schedule this water with the Delta conveyance priority in relation to any other transfer water that DWR conveys at the Harvey O. Banks Pumping Plant for these same Participating Contractors that has been agreed to by the Management Committee, provided that the Groundwater Substitution Component Water will not have a higher priority than Storage Component Water provided under the Agreement.
4. Pursuant to the notification described in Section 7.D.2 above, if the Management Committee so determines, DWR will require that if the Authority requests Groundwater Substitution Component Water, to schedule this water with the Delta conveyance priority in relation to any other transfer water that the Authority schedules for conveyance at the Harvey O. Banks Pumping Plant or at the C.W. Jones pumping plant for the members of the Authority that will receive water pursuant to this Amendment that has been agreed to by the Management Committee, provided that the Groundwater Substitution Component Water will not have a higher priority than Storage Component Water provided under the Agreement.

E. Payment Provisions

1. DWR will pay Yuba the per acre-foot price for the amount of Net Accrued Groundwater Substitution Component Water that DWR has committed to purchase in the letter agreement described in this Section unless this amount is reduced as provided for under Section 7.2 above or is reduced because the Yuba Member Units do not pump the requested quantity of groundwater substitution pumping program water for the Groundwater Substitution Component Water.
2. The Parties acknowledge that Section 5.1.8 of the Yuba Accord Fisheries Agreement allows the River Management Team (a group defined in the Fisheries Agreement) to schedule the release of a portion of Groundwater Substitution Component Water at a time when it might not be transferable. DWR will not be required to pay for the portion (if any) of Groundwater Substitution Component Water that is scheduled for release in accordance with the provisions of Section 5.1.8 of the Yuba Accord Fisheries Agreement to the extent that this quantity of Groundwater Substitution Component Water is not transferable under the accounting provisions set forth in Exhibit 1 of the Agreement.

F. Invoicing

1. For each Water Accounting Year in which Accrued Groundwater Substitution Component Water is being delivered to DWR, Yuba will submit three invoices to DWR. On or about May 22 in each year that DWR has agreed to purchase Accrued Groundwater Substitution Component Water, Yuba will submit an invoice to DWR for 50% of the amount of Net Accrued Groundwater Substitution Component Water that DWR has committed to purchase in the letter agreement described in this Section during the current Water Accounting Year.
2. On or about August 30 in each year that DWR has agreed to purchase Accrued Groundwater Substitution Component Water, Yuba will submit an invoice to DWR for 40% of the amount of Net Accrued Groundwater Substitution Component Water DWR has committed to purchase in the letter agreement described in this Section or that is otherwise payable under Section 7 (“Groundwater Substitution Component Water”) of this Agreement during the current Water Accounting Year.

SWP #26851

3. Approximately 30 days after the end of the release of Groundwater Substitution Component Water from New Bullards Bar Reservoir with all the necessary confirmation, Yuba will provide to DWR a final invoice for the Net Accrued Groundwater Substitution Component Water by January 7 of the subsequent year that is undisputed.
4. DWR will pay Yuba within 75 days of the date that the DWR Contract Manager receives invoices containing all of the information required by Section 8.A of this Agreement.
5. If payments from any Participating Contractors to DWR for the Net Accrued Groundwater Substitution Component Water are delinquent, DWR will make partial payments to Yuba by the invoice due dates by remitting the amounts received pursuant to the invoice as of the due date. DWR will pay any delinquent portion to Yuba as soon as DWR receives the delinquent payments from Participating Contractors.
6. The agreements between DWR and the Participating Contractors provide for a Participating Contractor to pay interest on delinquent payments at the rate of 1% per month from the due date until paid in full. DWR will assess and use reasonable efforts to collect such interest from Participating Contractors who are delinquent in making payments to DWR for invoices under the Agreement, and DWR will pay such interest collected, along with the payments on invoices to Yuba.

8. INVOICING DETAILS

- A. Yuba's invoices to DWR will contain the following information:
 1. Federal and State Agreement numbers;
 2. Yuba's Taxpayer Identification Number;
 3. remittance address;
 4. point of contact;
 5. for estimated payments, verification that the Water has been scheduled in accordance with Sections 6.B and 7.D of this Agreement; and
 6. for year-end payments, certification that the Water has been delivered.

- B. Yuba will submit the invoice to DWR Contract Manager at the following address:

Department of Water Resources
Assistant Division Manager, Water Management
Division of Operations and Maintenance
Post Office Box 942836
Sacramento, California 94236-0001

cc: swpwatertransfers@water.ca.gov

9. RIGHT OF YUBA TO TRANSFER CERTAIN QUANTITIES OF WATER TO A THIRD PARTY

A. Definition of Third Party

A Third-Party as defined in this Section includes an agency, entity or individual that is other than: (a) DWR; (b) a Participating Contractor; or (c) a member unit, customer, landowner or any other entity within the boundaries of a Participating Contractor.

B. General Principles for Third-Party Transfers

1. There are three types of Third-Party Transfers: First Type of Third-Party Transfer of Storage Component Water, Second Type of Third-Party Transfer of Storage Component Water, and Third-Party Transfer of Accrued Groundwater Substitution Component Water.
2. Yuba may conduct Third-Party transfers provided that such transfers will not impair Yuba's ability to meet its obligations under this Agreement. Any agreement between DWR and a Participating Contractor will contain provisions that are consistent with this Section.
3. Yuba has the right to transfer certain quantities of Water to a Third Party. A Third Party can divert Water at any diversion facility that is a current or future authorized point of rediversion under Yuba's water rights. Third-Party Transfers can occur only if such rediversion does not adversely affect the operation of the Projects during Balanced Conditions or at any other time that such diversion would directly or indirectly require the Projects to release water from storage or to reduce their diversion or rediversion of water from the Delta to meet any applicable provision of state or federal law.

SWP #26851

4. So long as a Third-Party Transfer is carried out consistent with the water accounting provisions of Exhibit 1 for Released Transfer Water during Balanced Conditions, DWR and the Participating Contractors will not object based on the use of the water accounting provisions of Exhibit 1 to such a transfer as not protective of DWR and the Participating Contractors as legal users of water.

C. First Type of Third-Party Transfer

Yuba may transfer any quantity of Released Transfer Water of Storage Component Water that DWR determines will not be accounted for as Delivered Transfer Water to a Third Party as the First Type of Third-Party Transfer. Also, in the months of July through November during Balanced Conditions, if at any time the direct export of transfer water is restricted, Yuba reserves the right to give DWR notification 20 days in advance to not back into Project storage a specified quantity of Released Transfer Water. DWR reserves the right on or before the 20 days expire to notify Yuba that DWR will account for the specified quantity of water as Delivered Transfer Water at current year pricing. The Parties will estimate as expeditiously as possible during each year whether Storage Component Water is likely to be accounted for as Delivered Transfer Water in that Water Accounting Year. DWR will purchase all Storage Component Water that is accounted for as Delivered Transfer Water.

D. Second Type of Third-Party Transfer

In addition to any quantities of water transferred as First Type of Third-Party water, Yuba may transfer, up to 10,000 acre-feet per year of Released Transfer Water of Storage Component Water as the Second Type of Third-Party Transfer to a Third Party that would otherwise have been made available to DWR and the Participating Contractors. Second Type of Third-Party Transfers shall not involve Stored Released Transfer Water. Yuba will use reasonable efforts to transfer the Second Type of Third-Party Transfer during times when Yuba Storage Component Water could not otherwise be accounted for as Delivered Transfer Water, as a way of minimizing to the extent feasible reductions in the quantities of Storage Component Water that Yuba makes available to DWR and the Participating Contractors. Yuba will first deliver 30,000 acre-feet of Released Transfer Water of Storage Component Water to DWR before transferring up to 10,000 acre-feet of Second Type of Third-Party Transfer water. Yuba will provide DWR with 20 days' advance notice of a Yuba water transfer to a Third Party.

E. Third-Party Transfer of Accrued Groundwater Substitution Component Water

So long as a transfer of Accrued Groundwater Substitution Component Water is carried out consistent with the water accounting provisions of Exhibit 1 for Released Transfer Water during Balanced Conditions, Yuba may sell to a Third Party any quantity of Accrued Groundwater Substitution Component Water for which there is no agreement with DWR and the Participating Contractors to purchase pursuant to the negotiations described in Section 7.B Yuba will provide DWR with 20 days' advance notice of an Accrued Groundwater Component Water to a Third Party.

10. GENERAL PROVISIONS APPLICABLE TO WATER

A. Accounting for Water

Water delivered by Yuba to DWR will be accounted for in the manner set forth in Exhibit 1 ("Scheduling and Accounting Principles") of this Agreement. To the extent a conflict exists between the provisions of this Agreement and Exhibit 1, the provisions of this Agreement will control. Notwithstanding any other provision of this Agreement, DWR will only pay for water delivered by Yuba to DWR that is accounted for as Delivered Transfer Water pursuant to Exhibit 1.

B. Reservoir Refill Impact Accounting

Yuba will provide assurance to DWR and Reclamation that the refilling of reservoir storage in the Yuba Project resulting from the delivery of Water under this Agreement will not adversely impact the Projects. Yuba will avoid adverse impacts to the Projects by complying with the provisions of Exhibit 2 ("Reservoir Refill Accounting Provisions") of this Agreement. The provisions of Exhibit 2 will not apply to Water made available as a result of Yuba delivering groundwater instead of surface water to its Member Units to implement this Agreement.

C. Yuba's Conjunctive Use Program

To the extent that Yuba delivers groundwater instead of surface water to its Member Units in order to deliver Water to DWR pursuant to this Agreement, Yuba will comply with the provisions of Exhibit 3 ("Groundwater Monitoring and Reporting Program") of this Agreement.

SWP #26851

D. Conference Year Principles

During any Conference Year, the Parties will meet (along with the parties to the Fisheries Agreement and the Conjunctive Use Agreements) to determine how to address the circumstances, and to discuss the operation of the Yuba Project during that Water Accounting Year.

E. Efforts to Maximize the Beneficial Use of Water

Yuba will optimize to the extent feasible the operation of the Yuba Project to meet Yuba's obligations to supply Water under this Agreement. DWR will coordinate with Reclamation in the operation of the Projects to maximize the beneficial use of Water released by Yuba under this Agreement, including using all reasonable efforts to store water in Project facilities when Delta pumping is constrained and to avoid spills of water stored as result of the release of Water.

F. FERC Annual License and During the FERC Long-Term License

1. Following the expiration of the term of the initial Yuba River Development Project FERC License in 2016, FERC has issued Yuba a series of FERC Annual Licenses, after which Yuba expects that the FERC will issue the FERC Long-Term License.
2. Yuba will deliver, and DWR will pay for, Storage Component Water and Groundwater Substitution Component Water during any Water Accounting Year in which either a FERC Annual License or the FERC Long-Term License is in effect, if: (a) Water can be delivered by Yuba consistent with the terms of the applicable FERC Annual License or FERC Long-Term License; and (b) subject to a pricing agreement between the Parties.
3. Other than the pricing provisions, there will be no change in the other provisions of this Agreement during any Water Accounting Year that includes all or part of the term of any FERC Annual License or the FERC Long-Term License that do not significantly affect Yuba's ability to make Storage Component Water and Groundwater Substitution Component Water available.

G. Water Scheduling and Accounting Principles. The Water Scheduling and Accounting Principles (Exhibit 1) of the Agreement: (a) are intended to provide long-term protection of legal users of water from injury from Yuba water transfers; (b) apply throughout the term of the Agreement to Yuba water

transfers made available under the Agreement; and (c) are not subject to adjustment due to any regulatory actions (including actions regarding instream flows) that implement or are based on the Yuba River Accord and that concern Yuba's water rights permits or licenses, a FERC Annual License, the FERC Long-Term License or a Water Quality Certification issued by the State Board in relation thereto. If there is a regulatory action that requires a change in the operation of the Yuba Project, then Yuba will promptly notify DWR and discuss with DWR and the Participating Contractors the extent to which such action would affect the ability of Yuba to deliver Water under this Agreement.

- H. Reclamation Concurrence with Accounting Principles. The Parties acknowledge the necessity of Reclamation's concurrence with the Water Scheduling and Accounting Principles (Exhibit 1) and Reservoir Refill Accounting Provisions (Exhibit 2) of this Agreement. DWR, in coordination with Yuba, will work diligently and in good faith to obtain, in writing, Reclamation's agreement with the Exhibit 1 and Exhibit 2 of this Agreement. When there is an accounting disagreement between DWR and Reclamation, DWR will promptly notify Yuba in writing. Yuba has no obligation to make Water available and DWR and the Participating Contractors have no obligation to pay for such Water, unless and until Reclamation concur with the accounting principles of this Agreement.
- I. Term of Obligations. Yuba has no obligation to make available Water after December 31, 2050, and DWR and the Participating Contractors have no obligation to pay for such water, unless and until the Parties have entered into an amendment to extend the term of the Agreement for that purpose.

11. CERTAIN PAYMENTS CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

A. General

DWR intends that the payments due to Yuba under this Agreement for Water that is made available to the Participating Contractors will be paid from DWR funds received from the Participating Contractors. DWR will make contractual arrangements with the Participating Contractors under which the Participating Contractors would have an opportunity to make payments due to Yuba under this Agreement, in the event that DWR fails to make such payments when due, in order to avoid an interruption in Yuba making Water available to DWR under this Agreement. To the extent that DWR defaults in making the payments due to Yuba under this Agreement, then: (1) Yuba's obligation to make Water available to DWR under this Agreement will be excused to the extent and for

SWP #26851

the duration of DWR's default; (2) Yuba may attempt to mitigate its damages by selling Water made available under this Agreement to other parties to the extent and for the duration of DWR's default; and (3) DWR will be obligated to pay Yuba to the extent that Yuba is unable to mitigate Yuba's damages resulting from DWR's default.

B. State Funding Contingency

Except to the extent that DWR uses funds from sources that do not require legislative budgetary appropriation, DWR's payment obligations under this Agreement are contingent on appropriation or allotment of funds through the State Budget process.

12. TECHNICAL COMMITTEE AND MANAGEMENT COMMITTEE

A. Technical Committee

The Technical Committee will: (1) collect, review and analyze information relevant to accounting for Water consistent with Exhibits 1, 2, and 3, and information related to advances, payments and cost adjustments; (2) identify and attempt to resolve technical implementation issues; (3) periodically report to the Management Committee on the information gathered and any technical implementation issues identified; and (4) make recommendations to the Management Committee for resolution of any policy issues that arise or for any required factual determinations. If the Technical Committee is unable to agree on a recommendation to the Management Committee, the Technical Committee will cooperate to provide a balanced presentation of the facts, opinions and other information underlying the various positions on the issue to be determined.

B. Management Committee

The Management Committee will: (1) provide policy guidance in implementing this Agreement; (2) make any factual determinations required to implement this Agreement; (3) consider information provided by the Technical Committee, if applicable, when making decisions; and (4) identify and resolve any policy-related implementation issues. If agreement among the representatives to the Management Committee cannot be reached on any issue necessary to the ongoing implementation of the Agreement, DWR and Yuba will meet and confer in a good faith effort to reach agreement. In the event that agreement

cannot be reached among DWR and Yuba on an issue, that issue will be subject to Section 21 ("Remedies and Dispute Resolution") of this Agreement.

13. ENVIRONMENTAL COMPLIANCE

In 2007, Yuba, as lead agency under CEQA, filed a notice of determination for the Final Environmental Impact Report for the findings required under State Board Order – 2008 and implementing the Yuba River Accord (including this Agreement), and DWR filed a notice of determination concerning its responsibilities as to environmental effects of implementing this Agreement.

In 2024, Yuba, as lead agency under CEQA, filed a notice of determination for the Final Supplemental Environmental Impact Report for the findings required under State Board Order – Long-Term Petition and implementing this Amendment, and DWR filed a notice of determination concerning its responsibilities as to environmental effects of implementing this Amendment.

The Short-Term Petition is exempt from CEQA under California Water Code Section 1729.

14. APPROVALS AND CONDITIONS PRECEDENT TO PERFORMANCE OF THIS AGREEMENT

A. Section 5.2 of the Yuba Act

Yuba represents that Yuba has complied with the provisions of Section 5.2 of the Yuba Act, which requires that, prior to entering into this Agreement, the Board of Directors of Yuba to: (1) determine that water to be purchased under this Agreement would be surplus to the amount of water available to meet the contractual requirements of Member Units; (2) hold a public hearing to receive and consider comments on and objections to this Agreement; (3) confirm that a majority in number of registered voters residing within Yuba County have not filed written protests against this Agreement; and (4) find that the long-term purchase of water under this Agreement may be carried out without injuring any legal user of water, without unreasonably affecting fish, wildlife or other instream beneficial uses, and without unreasonably affecting the overall economy of Yuba County.

B. Compliance with Water Code Section 1745.10

Yuba represents that Yuba has complied with the provisions of Water Code Section 1745.10.

SWP #26851

C. Other Approvals by Yuba

Yuba will be responsible for obtaining approval of the State Board as necessary to enable this Agreement to be fully implemented, and for obtaining any other permits and approvals necessary for Yuba to make Water available for diversion by DWR under this Agreement. Pursuant to Section 23.H of this Agreement, DWR will provide reasonable assistance to Yuba in Yuba's actions to obtain any permits or approvals that may be necessary for Yuba to make Water available for diversion by DWR under this Agreement.

D. Other Approvals by DWR

Except as otherwise addressed in this Agreement, DWR will be responsible for complying with State and Federal laws necessary for DWR to divert and use the Water made available under this Agreement. Pursuant to Section 23.H of this Agreement, Yuba will provide reasonable assistance to DWR in DWR's actions to obtain any permits or approvals that may be necessary for DWR to divert and use Water that Yuba will make available under this Agreement.

15. PLACE OF USE OF WATER

Water made available under this Agreement may be used within the place of use specified under Yuba's water rights.

16. POINTS OF REDIVERSION OF WATER

Water made available under this Agreement may be rediverted at any authorized point of rediversion under Yuba's water rights.

17. PURPOSE OF USE OF WATER

Water made available under this Agreement may be used for any authorized purpose of use under Yuba's water rights.

18. HOLD HARMLESS

- A. DWR will not assert that Yuba, its officers, agents or employees, are liable for damages of any nature whatsoever arising out of any actions or omissions by DWR, its officers, agents or employees, related to DWR's performance of this Agreement, where such liability is caused by an act, error or omission of DWR, its officers, agents or employees.

- B. Yuba will not assert that DWR, its officers, agents or employees, are liable for damages of any nature whatsoever arising out of any actions or omissions by Yuba, its officers, agents or employees, related to Yuba's performance of this Agreement, where such liability is caused by an act, error or omission of Yuba, its officers, agents or employees.
- C. To the extent permitted by California law, Yuba will indemnify, defend and hold DWR and its officers, agents and employees safe and harmless from any and all claims, judgments, damages, penalties, costs, liabilities and losses (including without limitation, sums paid in settlement of claims, actual attorney's fees, paralegal fees, consultant fees, engineering fees, expert fees and any other professional fees) that arise from or are related in any way to Yuba's activities under this Agreement that are under the exclusive control of Yuba, including but not limited to the release, conveyance, use or distribution of water released by Yuba from the Yuba Project for purposes of this Agreement.
- D. To the extent permitted by California law, DWR will indemnify, defend and hold Yuba and its officers, agents and employees safe and harmless from any and all claims, judgments, damages, penalties, costs, liabilities and losses (including without limitation, sums paid in settlement of claims, actual attorney's fees, paralegal fees, consultant fees, engineering fees, expert fees and any other professional fees) that arise from or are related in any way to DWR's activities under this Agreement that are under the exclusive control of DWR, including but not limited to the conveyance, use or distribution of water made available by Yuba from the Yuba Project for purposes of this Agreement.
- E. Yuba and its officers, agents, employees and insurers will not be responsible for the quality of water made available by Yuba from the Yuba Project for purposes of this Agreement.

19. FORCE MAJEURE EVENT

- A. A *Force Majeure* Event will excuse or suspend performance as provided in this Section for the duration of the *Force Majeure* Event. To the extent that *Force Majeure* Event prevents DWR from using the Water delivered by Yuba, then DWR will be excused from paying for Water during the duration of the *Force Majeure* Event
- B. To the extent that a *Force Majeure* Event prevents Yuba from providing Water, Yuba's performance will be excused during the duration of the *Force Majeure* Event.

SWP #26851

- C. During a *Force Majeure* Event, each of the Parties will, to the extent practicable, take actions to minimize the impacts of the *Force Majeure* Event on the other Parties.

20. REGULATORY ACTION

Other than the regulatory actions described in Section 10.G, in the event of a Regulatory Action during the term of this Agreement: (a) the affected Party will promptly notify the other Parties of the Regulatory Action and the manner in which it affects performance under this Agreement; and (b) the Parties will proceed under the process provided for in Section 21 ("Remedies and Dispute Resolution") of this Agreement, to the extent applicable. This Section does not affect the other rights and remedies of the parties under this Agreement.

21. REMEDIES AND DISPUTE RESOLUTION

- A. Should any material disputes arise concerning any provision of this Agreement, or the rights and obligations of the Parties thereunder, including those involving possible termination or those that might cause the initiation of any administrative or judicial proceeding to enforce or interpret this Agreement, the Parties will present the issue to the Management Committee (which may request assistance from the Technical Committee) for a recommendation for resolving the dispute.
- B. If the process described in the preceding subsection fails to resolve the dispute within 30 days, the Parties will submit the dispute to a mediator who has experience in water-related disputes. Each party will bear half of any such mediation cost. Initiation of this mediation process will be through written notice by one Party to the other Party. The Parties reserve all of their other remedies that may be provided by law or equity in the event that such mediation fails to resolve a dispute. The Parties, in consultation with the mediator, will use their best efforts to resolve the dispute within 30 days. Under no circumstances, however, will mediation under this Section result in a requirement that diminishes, limits, or contravenes the discretion, authority or any delegated authority of the Director of DWR under State law.
- C. If mediation fails to resolve the dispute, and prior to commencing any legal action to resolve the dispute, the Party proposing to commence legal action will provide the other Party 30 days' written notice of such action, provided that such notice will not be required where a delay in commencing an action would

prejudice the interests of the Party that intends to file suit. During the 30-day notice period, the Parties will continue to attempt to resolve the dispute.

22. EFFECT OF THIS AGREEMENT ON OTHER MATTERS

A. As a Precedent

Nothing in this Agreement is intended or will be construed as a precedent or other basis for any argument that the Parties have waived or compromised their rights that may be available under State or federal law, except as to matters addressed in this Agreement.

B. As to Water Rights

The only rights granted to the Parties as a result of this Agreement are those expressly set forth in this Agreement. The providing of water by Yuba under this Agreement will not confer any appropriative, public trust or other right to water on any person or entity. Nothing in this Agreement is intended or will be construed to act as a forfeiture, diminution or impairment of any water right of Yuba. Consistent with the provisions of California Water Code Sections 109, 475, 1011, 1014 through 1017, 1244 and 11961, the delivery of water under this Agreement will not be evidence of or used to demonstrate either the existence of surplus water after this Agreement expires, or the lack of beneficial use of the water supplies referred to in this Agreement, and the Parties will not contend otherwise. In accordance with Water Code Section 1016, and other applicable provisions of California law, at the conclusion of the term of the water transfers provided for under this Agreement, all rights in, and the use of, the water supplies referred to in this Agreement will revert back to Yuba, and DWR or any beneficiary of this Agreement, will not do either of the following: (1) bring any claim for continuation of the water supply made available by this Agreement; or (2) claim any right to a continued supply of water made available under this Agreement, based on reliance, estoppel, intervening public use, prescription, water shortage emergency, or unforeseen or unforeseeable increases in demand, or any other cause.

C. As to the Fisheries Agreement

None of the rights and obligations of the Parties under this Agreement will be affected in the event that the Fisheries Agreement terminates prior to the expiration of the term of this Agreement.

SWP #26851

D. As to the Application of Section 27 of the Federal Power Act

Section 27 of the Federal Power Act limits the licensing authority of FERC with respect to a law regarding the control, appropriation, use or distribution of water used in irrigation or for municipal or other uses. The Parties will not contend or bring any claim that any provision of this Agreement is a law regarding the control, appropriation, use or distribution of water used in irrigation or for municipal or industrial uses, as these terms are used in Section 27 of the Federal Power Act.

23. GENERAL CONTRACTING PROVISIONS

A. Notices

The time for providing any notices specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement. All notices and other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (a) served personally on the Party to whom notice is to be given; (b) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (c) on the third day after mailing, if mailed to the Party to whom notice is to be given by first-class mail, postage prepaid, and properly addressed to the designated representatives of the Parties set forth below. A Party may notify the other Parties in writing of a change in its designated representatives, without requiring an amendment to this Agreement.

DWR:

Director
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

With Copy to:

Assistant Division Manager, Water Management
Division of Operations and Maintenance
P.O. Box 942836
Sacramento, CA 94236-0001

Yuba:

General Manager
Yuba County Water Agency
1220 F Street
Marysville, CA 95901

B. Signatories' Authority

The signatories to this Agreement represent that they have authority to execute this Amendment and to bind the Party on whose behalf they execute this Agreement. Yuba will provide to DWR a copy of a resolution or minute order authorizing execution of this Agreement.

C. Counterparts of this Agreement

This Amendment may be signed in any number of counterparts by the Parties, each of which will be deemed to be an original, and all of which together will be deemed to one and the same instrument. This Agreement, if executed in counterparts, will be valid and binding on a party as if fully executed all in one copy. The Parties agree to accept facsimile, DocuSign digital signature, or PDF (Portable Document Format) signatures as original signatures.

D. Binding on Successors/Assignment

This Agreement will bind and inure to the benefit of the respective successors and assigns of the Parties, except that, none of the obligations of the Parties set forth in this Agreement will be assigned without the prior, written approval of the other Parties, which approval will not unreasonably be withheld.

E. No Third-Party Beneficiaries, Except as Expressly Provided

This Agreement will not be construed to create any third-party beneficiaries, except as set forth in this Section. This Agreement is for the sole benefit of the Parties, their respective successors and assigns, and no other person or entity will be entitled to rely on or receive any benefit from this Agreement or any of its terms.

F. Amendments

This Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

SWP #26851

G. Opinions and Determinations

Where the terms of this Agreement provide for action to be based upon the opinion, determination, approval or review of either Party, such terms are not intended to be, and will not be construed as permitting such actions to be arbitrary, capricious or unreasonable. Any opinion, determination, approval or review required of a Party under this Agreement will be provided in a timely manner.

H. Reasonable Cooperation

The Parties will reasonably cooperate with each other, including the execution of all necessary documents and providing assistance in obtaining approvals and permits from regulatory agencies required to perform the obligations under this Agreement and to carry out the purpose and intent of this Agreement.

I. Construction and Interpretation

This Agreement is entered into freely and voluntarily. This Agreement has been arrived at through negotiation, and each Party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Agreement.

J. Complete Contract

This Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of the terms of this Agreement among the Parties concerning the subject matter, and supersedes all prior negotiations, representations or agreement, either oral or written, that may be related to the subject matter of this Agreement, except as to those other agreements that are expressly referred to in this Agreement.

K. Determination of Unenforceable Provisions

If any term or provision of this Agreement is deemed invalid or unenforceable by any court of final jurisdiction, the Parties will meet and attempt to address this situation pursuant to the provisions of Section 21 ("Remedies and Dispute Resolution") of this Agreement.

L. Waiver

The waiver at any time by a Party of its rights with respect to a default or other matter arising in connection with this Agreement will not be deemed a waiver with respect to any other default or matter.

M. Time

Time is of the essence in this Agreement. Any date specified in this Agreement may be changed with the written consent of the Parties.

N. Applicable Law

This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

O. Venue

Any appropriate County under California law will be venue for any state court litigation concerning the enforcement or interpretation of this Agreement.

P. Remedies Not Exclusive

The remedies provided in this Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or equity. The exercise by the Party of any remedy under this Agreement will be without prejudice to the enforcement of any other remedy.

Q. Officials Not To Benefit

No member or delegate to Congress, Resident Commissioner, or Federal or State official will be admitted to any share or part of this Agreement or to any benefit that may arise therefrom.

R. Standard Clauses

Yuba will comply with the State of California, Department of Water Resources, Standard Clauses as shown on Exhibit 4 ("State of California, Department of Water Resources, Standard Clauses") to this Agreement.

SWP #26851

S. Exhibits Incorporated

Each exhibit to which reference is made is deemed incorporated in this Agreement, whether or not actually attached.

The foregoing is hereby agreed to by the Parties.

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

Approved as to Legal Form
and Sufficiency

State of California
Department of Water Resources

Ann K. B. Carroll
General Counsel

Karla A. Nemeth
Director

Date

Date

Attest:

Yuba County Water Agency
A Political Subdivision of the State of
California

Amanda Nix
Clerk of the Board

Willie Whittlesey
General Manager

Date

Date

LIST OF EXHIBITS

- Exhibit 1 Scheduling and Accounting Principles
- Exhibit 2 Reservoir Refill Accounting Provisions
- Exhibit 3 Groundwater Monitoring and Reporting Program
- Exhibit 4 State of California, Department of Water Resources, Standard Clauses

EXHIBIT 1

SCHEDULING AND ACCOUNTING PRINCIPLES

OVERVIEW

Monitoring, measuring, and accounting of the water that will be transferred under this Agreement can be generally described as consisting of two fundamental parts: (1) measuring the flows at the Marysville Gage resulting from increased releases from storage in New Bullards Bar Reservoir that are greater than the baseline, without-transfer flows; and (2) measuring the ability of the Projects to apply these flows to beneficial uses. The amounts of increased releases will be determined by measuring the outflow of the Yuba River at the Marysville Gage, and by measuring groundwater substitution pumping associated with this Agreement. The Projects' ability to use the water will be determined by the ability of the Projects to export the water at the Projects' Delta pumping facilities or to put the water to other beneficial uses. That is, water accounted for as transfer water under this Exhibit will include Released Transfer Water that is deemed to be Delivered Transfer Water, as those terms are defined in this Exhibit.

1. DEFINITIONS

Terms used in this Exhibit have the same definitions as the definitions listed in Section 1 of this Agreement. When used in this Exhibit, the following terms have the following definitions:

“Accord Flows” means the schedule of instream flows listed in Exhibit 1 of the Fisheries Agreement.

“Baseline Conditions” means the conditions deemed under this Exhibit to represent the conditions that would have occurred without implementation of this Agreement or the Fisheries Agreement. “Baseline Conditions” define the without-transfer conditions and would result in the Baseline Flows.

“Baseline Diversions” means the diversions that are defined in Section 2.2.2 of this exhibit.

“Baseline Flows” means the flows that would have been present at the Marysville Gage under the Decision 1644 interim instream flow requirements and all other Baseline Conditions, without implementation of the Yuba River Accord.

SWP #26851

“Baseline Storage” means the amount of water that would have been stored in New Bullards Bar Reservoir under Baseline Conditions.

“Baseline Storage Target” means the storage targets that are defined in Section 2.3 of this exhibit.

“Carriage Water” means the water losses due to increased Delta outflow necessary to maintain baseline Delta salinity conditions as determined by DWR and Reclamation, that are associated with Delivered Transfer Water or Stored Released Transfer Water that is exported at the Projects’ Delta pumping facilities.

“Delta Export Facilities” means the Banks and Jones pumping facilities as determined to be available for export by the Projects.

“Flow Fluctuation Operations” means operations driven by flow fluctuation criteria rather than minimum flow requirements or storage operations.

“Marysville Gage” refers to USGS Gaging Station No. 11421000, Yuba River near Marysville.

“Minimum Flows” is the required minimum instream flows specified in Decision 1644 page 176 table titled “Interim Instream Flow Requirements.”

“Negative Transfer Flows” means the additional amount of flows above the Accord Flows that would have been released as part of a Baseline Flows when the Baseline Conditions Decision 1644 interim instream flow requirement is greater than the Accord Flows. “Negative Transfer Flows” are further defined in Section 4.4 of this exhibit.

“Percent Inflow Diversion Loss” means the amount of Released Transfer Water that is lost due to the restrictions imposed by the “maximum percent of Delta inflow diverted” standard as described in the SWRCB Revised Decision 1641 when that standard is generally 35% from February 1 to June 30.

“Refill” is a condition of reduced releases from New Bullards Bar Reservoir as compared with the releases that would occur under Baseline Conditions. These reduced releases could result from diversions to storage to fill storage space evacuated as a result of releases that created the Storage Component of Released Transfer Water.

“Smartsville Gage” refers to USGS Gaging Station No. 11418000, Yuba River below Englebright Dam, near Smartsville.

“Total Uncontrolled Flows” means the total amount of flows entering Englebright Reservoir, other than from releases from the New Colgate Powerhouse, plus flows from Deer Creek and Dry Creek into the lower Yuba River downstream of Englebright Reservoir.

2. BASELINE CONDITIONS

Baseline Conditions are the controlling constraints and criteria for operation of the Yuba Project that determine Baseline Flows for the accounting of Released Transfer Water during the term of this Agreement. Baseline Conditions include the following:

2.1. Regulatory Instream Flow Requirements:

- 2.1.1. Decision 1644 interim instream flow requirements.
- 2.1.2. FERC License 2246 instream flow requirement of 400 cfs at the Marysville Gage (below Daguerre Point Dam) for the period of October 1-14, including the dry year reductions of this flow requirement that are authorized in the License.
- 2.1.3. Flow reduction restrictions required by FERC License 2246.
- 2.1.4. Flow fluctuation restrictions specified in the November 22, 2005 FERC Order Modifying and Approving Amendment of License (at page 11 of that order).

2.2. Water Supply Agreements:

- 2.2.1. Water supply agreements between Yuba and the following Member Units: Browns Valley Irrigation District, Hallwood Irrigation Company, Cordua Irrigation District, Ramirez Water District, Brophy Water District, South Yuba Water District, Dry Creek Mutual Water Company and Wheatland Water District.
- 2.2.2. Baseline Diversions that are made under the agreements listed in Section 2.2.1 are the measured diversions as reported by Yuba, including any reduced diversions that are made to provide water for the Groundwater Substitution Component Water, and including other reduced diversions that are implemented as part of defined water efficiency or conservation programs or projects.

SWP #26851

2.3. **Baseline Storage Target Line** is a graphical line of the maximum storage levels during the year at which Yuba would normally operate New Bullards Bar Reservoir under Baseline Conditions. These storage amounts are to be used as a guide. In the absence of information showing different Baseline Storage amounts, the Baseline Storage Target Line amounts are to be used.

2.3.1. These levels are:

- September 30: 705,000 acre-feet;
- October 1 to October 31: linearly ramped from 705,000 acre-feet to 700,000 acre-feet;
- November 1 to February 15: 700,000 acre-feet;
- February 16 through March 31: linearly ramped from 700,000 acre-feet to 796,000 acre-feet;
- April 1 through April 30: linearly ramped from 796,000 acre-feet to 896,000 acre-feet;
- May 1 through May 31: linearly ramped from 896,000 acre-feet to 966,000 acre-feet; and
- June 1 through June 30: 966,000 acre-feet.
- July 1 to September 29: no fixed Baseline Storage Target amounts are provided for this period, because the maximum storage levels during this period at which Yuba would normally operate New Bullards Bar Reservoir under Baseline Conditions are governed by the runoff hydrology conditions of the Yuba River.

3. BASELINE FLOWS DETERMINATION

3.1. Baseline Flows will be determined as mean daily flows in cubic feet per second (cfs), with a separate determination for each day of the accounting period. Baseline operations will be characterized by four categories of operation, each of which are governed by the overriding operational constraint for the applicable time period. The four categories of operation are: (1) Operation to Minimum Flows; (2) Operation to Baseline Storage Target release; (3) Transitional Operations; and (4) Flow Fluctuation Restricted Operations. The four categories and the calculation to determine the Baseline Flows under each category of operation as well as a general description of when each category will occur are described below. Once one of the four categories of operation has been determined to be in effect, the procedures of this Section will be used to determine the resulting Baseline Flows that would have occurred at the Marysville Gage. Yuba will prepare a

guideline description of baseline operations that can be used by the Parties and others to understand the operations of the Yuba Project that would occur under Baseline Conditions.

- 3.2. Due to the complex nature of the controlling operational criteria for the Yuba Project and the hydrology of the Yuba River watershed, there may be periods when conditions will not allow for use of the accounting procedures listed for any of these four categories of operations to determine the Baseline Flows. Technical representatives from each Party will work together to attempt to resolve the transfer accounting for such periods. If the Parties cannot agree upon the accounting for such periods, then the dispute resolution process of Section 11.2 of this exhibit will be followed.
- 3.3. **Operation to Minimum Flows** is the controlling category of operation when releases under Baseline Conditions would have been made to maintain the minimum required flows at the Marysville Gage or at the Smartsville Gage, whichever is the controlling location. The flow requirements listed in the table titled "Interim Instream Flow Requirements" on page 176 of Decision 1644 are the regulatory minimum required flows under Baseline Conditions and are the Baseline Flows that would occur when this category of operation is controlling.

3.3.1. Determination of When Operation to Minimum Flows Would Occur

- 3.3.1.1. Beginning October 1, operations under Baseline Conditions will be considered to be at Minimum Flows unless or until there is a need to increase releases to manage storage levels at or below the Baseline Storage Targets. In the late winter and spring, forecasted runoff and resulting New Bullards Bar Reservoir storage govern when releases would exceed the minimum flows. For the winter and spring, if storage in New Bullards Bar Reservoir would have been at or above the Baseline Storage Targets with continued operations to minimum flows then a transition to releases above the minimum flow requirements would occur.
- 3.3.1.2. For the months of March through September, if, with releases from New Bullards Bar Reservoir to meet the Decision 1644 Interim Instream Flow Requirements and Baseline Diversions, the end-of-September Baseline Storage Target in New Bullards Bar Reservoir would have been at or below 705,000 acre-feet, then the Baseline

SWP #26851

Flows for this period will be the Decision 1644 Interim Instream Flow Requirements.

3.3.2. Calculation of Baseline Flow under Operations to Minimum Flows.

If operations to minimum flows has been determined to occur as described in Section 3.3, then Baseline Flows will be calculated as follows:

- 3.3.2.1. Calculate the River Balance – The River Balance includes intervening accretions or depletions of the Yuba River between the Smartsville Gage and the Marysville Gage. The River Balance equals the measured flow at the Marysville Gage plus the measured Yuba diversions minus the measured flow at the Smartsville Gage.
- 3.3.2.2. Calculate the Baseline Flow – The Baseline Flows equal the greater of the required Decision 1644 Interim Instream Flow Requirement at the Smartsville Gage minus the sum of the measured Yuba diversion plus the River Balance or the required Decision 1644 Interim Instream Flow Requirement at the Marysville Gage plus any adjustments for Total Uncontrolled Flows that would not have been offset by a reduction in releases from Englebright Reservoir. The adjustment of Total Uncontrolled Flows will include short-duration increases in releases from the Narrows II Powerhouse due to short-term increases in power demands, power outages resulting in loss of control of releases from Englebright Dam and short duration uncontrolled runoff downstream of Englebright Dam that occurs when there is no Decision 1644 Interim Instream Flow Requirement at the Smartsville Gage.

3.4. Operations to Target Storage Release

- 3.4.1. For all times of the year, Operations to Target Storage Release is the controlling category of operation if operation to Minimum Flows would result in New Bullards Bar Reservoir storage above the Baseline Storage Target. If Operations to Target Storage Release would have occurred, then the Baseline Flow is the rate of release that would have been needed to meet the monthly Baseline Storage Target amount in New Bullards Bar Reservoir.

- 3.4.2. In the months of December through March, forecasts of future inflow and actual inflow are used to develop release decisions. During these months, operations are to manage storage to meet the springtime Baseline Storage Target, while avoiding spills of water from New Bullards Bar Reservoir.
- 3.4.3. If the end-of-September storage in New Bullards Bar Reservoir under Baseline Conditions would have been above 705,000 acre-feet with releases from New Bullards Bar Reservoir minimized to meet the Decision 1644 Interim Instream Flow Requirements and diversions, then the Baseline Flows will be the flow rate schedule that would have been needed to release sufficient water from New Bullards Bar Reservoir to meet an end-of-September storage of 705,000 acre-feet.
- 3.4.4. The accounting in wetter years in the summer period is based on reaching storage in New Bullards Bar Reservoir on September 30 as described in and subject to the provisions above. The water storage volume in New Bullards Bar Reservoir is affected by natural inflow, and the scheduled release of water from New Bullards Bar Reservoir is predicated on an estimate of this inflow. Because the release of water to achieve the target storage is relatively fixed as of mid-summer, Yuba and the Projects may revise the target storage volume in New Bullards Bar Reservoir if mutual agreement is reached.
- 3.5. **Transition Operations** would have occurred when Baseline Releases would have previously been governed by either Operation to Minimum Flows or Operation to Target Storage Release and the operational constraint would have shifted to the other type of operation. Under this condition, a period of transition would have occurred and flows would have been based on the specific conditions at that time, including actual runoff, forecasts of runoff, and planned operations. Because each circumstance of Transition Operations would have been different, Yuba will prepare forecasted Baseline Flows for the transition time period and provide supporting data to show why the Baseline Flows would have been expected to have occurred. Maximum hourly and daily rates of flow change are prescribed in FERC License 2246 and the “November 22, 2005 FERC Order Modifying and Approving Amendment of License” for the Baseline Flows operations.
- 3.6. **Flow Fluctuation Operations** would have occurred when the FERC License 2246 restriction on flow reductions in the months of October to

SWP #26851

March, or the restriction on flow reductions in the November 22, 2005 FERC Order Modifying and Approving Amendment of License would have required flows to be maintained above the minimum flows. Flow Fluctuation Operations would have been managed the same as Operations for Minimum Flows except that the minimum instream flow requirement would be prescribed by the flow reduction restrictions in FERC License 2246 or the flow fluctuation restrictions in the November 22, 2005 FERC Order Modifying and Approving Amendment of License, rather than the Decision 1644 Interim Instream Flow Requirements. As early as practical, Yuba will provide the minimum allowable flows for flow fluctuation operations as the Baseline Flows to DWR, along with an explanation of the determination of these Baseline Flows.

- 3.7. **Fishery Study Flows** - The Fisheries Agreement calls for the development of fishery studies. Some of the studies to be conducted could involve fluctuation of flows during some periods. If a defined flow release schedule is planned as part of a fishery study administered by Yuba or the River Management Team (a group defined in the Fisheries Agreement) under the Fisheries Agreement, then these flows in this schedule will not be part of Baseline Flows and, if all other aspects of this exhibit are satisfied, then the amounts of these flows that exceed Baseline Flows will be accounted as Released Transfer Water. Any reduced releases as part of a fishery study will be accounted as a Negative Transfer Flow if the conditions of Section 4.4 of this exhibit Negative Transfer Flow are met. At a minimum of 14 days prior to the start of any such study, and as early as possible, Yuba will provide notice of any Fishery Study Flows to DWR.
- 3.8. **Baseline Storage** - Yuba will use the Baseline Flow amounts to determine the daily storage in New Bullards Bar Reservoir that would have occurred under Baseline Conditions. The calculation of Baseline Storage will use the actual inflows into New Bullards Bar Reservoir and Total Uncontrolled Flows into the lower Yuba River, along with a daily calculation of the releases from New Bullards Bar Reservoir that would have been made to meet the Baseline Flows, to determine the daily Baseline Storage amount. The Baseline Storage amount will be used to calculate the Base Transfer amount for Refill accounting in Exhibit 2 of this Agreement.

4. TRANSFER WATER DELIVERY AND FLOW MEASUREMENT

- 4.1. **Point of Measurement and Delivery** - The point of delivery and the point of measurement of Released Transfer Water, and the point for determination

of Baseline Flows, all will be at the Marysville Gage. The flows used for calculating Released Transfer Water and Baseline Flows will be mean-daily flows in cfs.

- 4.2. **Released Transfer Water** will be the amount of the actual mean-daily flow that has been measured at the Marysville Gage minus the mean daily Baseline Flows for the same day. The mean daily Baseline Flow will be determined according to the methods described in Section 3 of this exhibit.
- 4.3. **Stored Released Transfer Water** is water that has been accounted for as Released Transfer Water and that results in increased storage in an upstream Project reservoir (that is, water that is “backed into storage”). Released Transfer water will be deemed to have been stored in an upstream Project reservoir when the Delta is in Balanced Conditions, there is no available pumping capacity for Released Transfer Water at Project Delta pumping facilities, and releases from Project storage reservoirs would have been greater in the absence of Released Transfer Water. The incrementally greater Project release necessary under Baseline Conditions will be accounted for as Stored Released Transfer Water in Project storage. This accounting of Stored Released Transfer Water will be kept to determine whether Stored Released Transfer Water can subsequently be released from Project storage and exported by the Projects to the Participating Contractors under Section 5.5 of this exhibit, and thus be accounted for as Delivered Transfer Water. Every effort will be made to account for Stored Released Transfer Water as backing into Oroville Reservoir as a first preference. This will necessitate an adjustment in the COA between the two Projects.
- 4.4. **Negative Transfer Flows** – During certain periods, the amount of the actual measured flow under Section 4.1 of this exhibit may be lower than the applicable Decision 1644 Interim Instream Flow Requirement. During these periods, the Baseline Flows will be the applicable Decision 1644 Interim Instream Flow Requirement. During these periods, the amount of the applicable Decision 1644 Interim Instream Flow Requirement minus the measured flow under Section 4.1 of this exhibit will be accounted for as a Negative Transfer Flow. If a Negative Transfer Flow occurs on a day when all or a portion of the Negative Transfer Flow amount could have been accounted for as Delivered Transfer Water as described in Section 5.5 of this exhibit, then this amount will be deducted from the total Delivered

SWP #26851

Transfer Water for the Water Accounting Year in which the Negative Transfer Flow occurred.

4.5. **Groundwater Substitution Component Flow** – Released Transfer Water may be fully or partially derived from Groundwater Substitution Component Water. **Exhibit 3** of this Agreement describes the process that will be used to determine the planned amount of Groundwater Substitution Component Water that will be provided each year and the monitoring and reporting that will be conducted by Yuba and participating Member Units for Groundwater Substitution Component operations.

4.5.1. Delivery and Measurement – Groundwater Substitution Component Water will be delivered at the Marysville Gage, and measured as Released Transfer Water under Section 4.2 of this exhibit.

4.5.2. Water released as Groundwater Substitution Component Water will not be included in the transfer amount for Refill accounting in **Exhibit 2** of this Agreement.

4.5.3. The total amount of Released Transfer Water that will be designated as Groundwater Substitution Component Water will be limited to the amount of groundwater pumping that is measured by the procedures described in **Exhibit 3** of this Agreement.

5. DETERMINATION OF DELIVERED TRANSFER WATER

5.1. Delivered Transfer Water may only occur when the Delta is determined by DWR to be in Balanced Conditions.

5.2. For this Agreement, it is assumed that Released Transfer Water measured at the Marysville Gage will reach the Projects' Delta export pumps 2 days after the date of measurement at the Marysville Gage.

5.3. For this Agreement, Released Transfer Water used as Carriage Water or used as Delta outflow when the E/I ratio is controlling in the time period of July 1 to January 31 by the Projects will be accounted as Delivered Transfer Water as described in Section 5.11 of this exhibit. For this Agreement, Percent Inflow Diversion Loss will not be accounted as Delivered Transfer Water.

5.4. For this Agreement, it is assumed that there will be no conveyance losses between the Marysville Gage and the Projects' Delta pumping facilities.

- 5.5. For each day that Released Transfer Water is accounted for under Section 4.2 of this exhibit, Stored Released Transfer Water accounted for under Section 4.3 of this exhibit is released from Project storage, a determination will be made, utilizing information provided by DWR that is described in Section 5.11 of this exhibit, regarding whether or not there was capacity available at the Projects' Delta export facilities.
- 5.6. Stored Released Transfer Water will be released from Project storage only if capacity at the Projects' Delta pumping facilities is available unless the water "spills" from Project storage before such export capacity becomes available and therefore will not be accounted for as Delivered Transfer Water.
- 5.7. The lesser of the following two amounts will be accounted for as Delivered Transfer Water if DWR has determined that capacity is available at the Delta export facilities as described in Section 5.11.
 - 5.7.1. The Released Transfer Water amount determined under Section 4.2 of this exhibit, or
 - 5.7.2. During any period when Percent Inflow Diversion Loss is occurring, only the incremental increase in exports that occurs as a result of Released Transfer Water.
- 5.8. For each day that there are Negative Transfer Flows as accounted for under Section 4.4 of this exhibit, a determination will be made regarding the amount of reduced Delta exports or increased Project releases that resulted from the Negative Transfer Flow. A Negative Transfer Flow will be accounted for as a reduction to the total amount of Stored Released Transfer Water if the effect of the Negative Transfer Flow is that it causes an increase in Project releases or reduces Delta exports.
- 5.9. Some or all of the Stored Released Transfer Water will be deemed to have been spilled from Project reservoir storage and will be debited from the account described in Section 4.3 of this exhibit, if the Project reservoir in which the Stored Released Transfer Water is stored makes flood control releases. The reduced amount will equal the actual amount of Stored Released Transfer Water spilled, or the total amount of Stored Released Transfer Water, whichever is less.

SWP #26851

- 5.10. Along with the accounting of Delivered Transfer Water, Yuba will maintain an accounting of the Base Transfer amount for Refill accounting. The Base Transfer amount for refill accounting will be calculated as the difference in volume of actual New Bullards Bar Reservoir storage and the Baseline Storage that is directly attributable to the release of Delivered Transfer Water from New Bullards Bar Reservoir storage.
- 5.11. DWR will make every effort to export Released Transfer Water and Stored Released Transfer Water based on the available export capacity at the Projects' Delta pumping facilities, as determined by DWR, which includes a determination of capacity available after delivery of SWP water and water for regulatory, water right and contractual obligations.

6. FORECASTING AND EXCHANGE OF INFORMATION FOR TRANSFER

- 6.1. Yuba and DWR will exchange operations forecasts and other data deemed useful for purposes of enhancing the usefulness of the water to be made available under this Agreement. The forecasts will identify and substantiate the quantities and timing of forecasted transfer flows over a range of possible hydrologic conditions, and identify forecasted periods of Balanced Conditions and water allocations for the CVP and SWP. Additionally, the operations forecasts to be provided will assist the CVP and SWP to efficiently integrate the Yuba flows in their operations plans.
- 6.2. Yuba will provide the following:
 - Updated forecasts of operations, monthly from February through June.
 - Updated forecasts as necessary, but not less than monthly, depending on changing conditions, from July through January.
 - The operations forecast should extend through the end of the current Water Year classification through January 31.
 - Initially, each Water Year, an operations forecast will be provided based on hydrologic probability of exceedance levels of 75%. DWR may request additional forecasts of difference hydrologic probability of exceedance levels as the Water Year progresses, depending on the need.
 - Each Yuba forecast will include:
 1. Forecasted flows at Marysville Gage (daily for the first 30 days of forecasted flows and then monthly, or for a partial month if the dates of flow change within month are known)

2. Forecasted Baseline Flows (daily for the first 30 days of forecasted flows and then monthly, or for a partial month if the dates of flow change within month are known)
 3. Forecasted New Bullards Bar reservoir storage
 4. New Bullards Bar forecasted inflow, outflow, diversions, evaporation
 5. Yuba River Index and Water Year classification
 6. North Yuba Index and computation details, North Yuba Water Year classification
 7. Forecasted transfer water quantities (monthly)
 8. Amounts and timing of groundwater pumping contributing to availability of transfer flows.
- 6.3. DWR will provide to Yuba before the 1st of each month from February through June, and from July through January if updated Yuba forecasts are needed, the following information:
- Details of CVP and SWP forecasted reservoir and export operations through the end of the current calendar year.
 - Forecasted periods of balanced conditions through the end of the current calendar year.

7. PROCEDURES FOR ACCOUNTING OF BASELINE FLOWS AND TRANSFER AMOUNTS

- 7.1. **Calculation of Forecasted Baseline Flows.** Yuba will calculate a preliminary forecast of Baseline Flows, as described in Section 3 of this exhibit on a monthly basis unless more frequent forecasted Baseline Flows are requested by DWR or provided by Yuba. The forecasted Baseline Flows along with forecasted flows will be used by DWR to plan Project operations to export Released Transfer Water. The preliminary forecast of the Baseline Flows will be made using forecasted hydrologic conditions for the month, based on Yuba River unimpaired flows forecasted in the most-recent DWR Bulletin 120 and any updates. Within 14 days after the end of the month, Yuba will provide DWR with its draft calculations of Baseline Flows.
- 7.1.1. Yuba will provide preliminary and draft final calculations of Baseline Flows to DWR for its review and concurrence. The calculation of preliminary Baseline Flows will be used to predict the amount and timing of Released Transfer Water that will be generated for the remaining Water Accounting Year. Yuba will continue to update the preliminary calculation of Baseline Flows as changes in hydrologic

SWP #26851

conditions affect the accuracy of the calculation. Yuba will provide DWR with all requested supporting information and calculations, excluding any models that were the bases of the calculation of Baseline Flows, so that DWR may verify the calculation. If DWR concurs with the preliminary calculation of Baseline Flows, then such preliminary Baseline Flows will be used in coordinating operations and for any initial allocation of Released Transfer Water as described in Section 8 of this exhibit. Yuba will also provide a calculation of Baseline Storage for Refill accounting (**Exhibit 2**) and comparison with the Baseline Storage Target Line.

- 7.1.2. Due to the delayed release of final USGS reporting of flows at the Marysville Gage, Yuba's transfer accounting will use the mean-daily flows as reported by Yuba to the USGS. DWR will be given timely notice if this information subsequently changes due to re-rating or shifts in the Marysville Gage, as reported by Yuba to the USGS.

7.2. **Calculation of Final Baseline Flows and Delivered Transfer Water Amount.** At the time that Yuba develops a preliminary estimate of Baseline Flows and provides it to DWR, Yuba also will develop and provide to DWR a preliminary release schedule and forecast of daily Released Transfer Water. Yuba will update the release schedule and resulting forecast of daily Released Transfer Water no less than once per month, unless an alternative time period is agreed to by the Parties. Within 14 days after the end of each month or within 14 days of an export period, Yuba will calculate a draft final Transfer Accounting under Section 7.2.5 of this exhibit. Section 6 of this exhibit describes the scheduling and coordination of sharing operational information.

- 7.2.1. Because of the variability of hydrologic conditions, Yuba will prepare a forecasted Baseline Flow, a release schedule and the resulting estimated quantities of Released Transfer Water. Yuba will provide indication of the relative probability of Baseline and transfer flows provided.
- 7.2.2. DWR will notify Yuba periodically, as information is available, when Project conditions are such that any of the forecasted Released Transfer Water may not be exported.
- 7.2.3. Calculation of the amount of Released Transfer Water will utilize the Yuba estimated amount of export capacity and the Percent Inflow

Diversion Loss, and DWR will confirm these amounts no later than 20 days after the end of the assumed export period. An export period ends following a verifiable point in time at which Baseline Flows can be verified against the Baseline Storage Target Line as described in Section 3 of this exhibit.

- 7.2.4. If DWR concurs with Yuba's draft final calculation of Baseline Flows, then it will become the final Baseline Flows, and will be used for all final transfer accounting for the corresponding period.
- 7.2.5. Along with the calculation of the draft final Baseline Flows, Yuba will also calculate and submit to DWR a draft final accounting of the amounts of Storage Component Water and Groundwater Substitution Component Water that were Delivered Transfer Water during the accounting period. Yuba will first prepare the draft based on initial estimates of exports of Delivered Transfer Water. This draft final accounting will include entries for the following:
 - a. Mean daily flow at the Marysville Gage, as measured according to Section 4 of this exhibit;
 - b. Daily schedule of resulting Released Transfer Water according to Section 4.2 of this exhibit and accounting for Negative Transfer Flows under Section 4.4 of this exhibit;
 - c. Calculation of Delivered Transfer Water under Section 5 of this exhibit, including any necessary reductions for Negative Transfer Flows and an accounting of Stored Released Transfer Water delivered and Stored Released Transfer Water remaining in storage;
 - d. A breakdown of the Storage Component and the Groundwater Substitution Component of the Delivered Transfer Water for the period.
 - e. A calculation of the amount of reduced storage in New Bullards Bar Reservoir that resulted from releases of Storage Component Delivered Transfer Water. The resulting amount of reduced storage calculated at the start of the Refill Period will be the Base Transfer amount used for Refill accounting as described in **Exhibit 2**.

SWP #26851

7.2.6. DWR will review and confirm the estimates of Delivered Transfer Water submitted by Yuba within 20 days after the end of the export period.

8. ACCOUNTING FOR COMPONENTS OF TRANSFER WATER

- 8.1. Water that has been determined to be Delivered Transfer Water will be credited towards one of two components of Water: Storage Component Water and Groundwater Substitution Component Water.
- 8.2. Delivered Transfer Water will be credited to one of these two components of Water.

9. CONFERENCE YEAR ACCOUNTING

- 9.1. No Negative Transfer Flows amount will be accounted for in a Conference Year if there is no Delivered Transfer Water.
- 9.2. Repayment of Refill provisions of the accounting will be suspended during a Conference Year.
- 9.3. If Yuba and DWR agree to transfer some amount of Water in a Conference Year, then the Conference Year Baseline Conditions will be agreed to by Yuba and DWR consistent with the Baseline Conditions detailed in Section 2 of this exhibit.

10. GROUNDWATER SUBSTITUTION COMPONENT WATER

- 10.1. Yuba, at Yuba's sole discretion, may decide to enter into agreements with participating Member Units under which the participating Member Units will arrange for their respective water users to reduce their use of surface water diversions by amounts to be determined by Yuba and the participating Member Units during the Water Accounting Year, and to pump equivalent amounts of groundwater from approved wells as replacement supplies for the Groundwater Substitution Component of Released Transfer Water. Yuba will provide DWR with one or more lists of the locations of the wells that may be pumped for the Groundwater Substitution Component Water, the selected production wells and the selection criteria used, the Yuba-maintained and the representative monitoring wells. In no case will groundwater pumping commence from a well for the Groundwater Substitution Component Water before approval of the well by DWR. DWR will review the list of wells, their locations and any other pertinent information provided by Yuba and the participating Member Units, and will notify Yuba

and the participating Member Units within 10 working days after the submittal of a list by Yuba of any well that DWR reasonably determines is not acceptable for pumping under this Agreement, and will inform Yuba and the Member Unit in which the well is located of the basis for the determination by DWR. Upon receipt of supplemental information from Yuba or the Member Unit in which the well is located, DWR may reconsider its refusal to allow the well to provide Groundwater Substitution Component Water and reverse its determination. Groundwater pumped for the Groundwater Substitution Component Water must be put to reasonable use for irrigation on lands that otherwise would have been served with surface water within the participating Member Unit's service area between March 1 and December 31.

- 10.2. Yuba will comply with the Groundwater Monitoring and Reporting Program, which is **Exhibit 3** to this Agreement.
- 10.3. Yuba and its Member Units will conduct Groundwater Substitution Component operations consistent with the latest Yuba Subbasins Water Management Plan: A Groundwater Sustainability Plan (GSP). The groundwater levels identified for management of Groundwater Substitution Component operation will be consistent with and above the levels identified in the GSP used to ensure basin sustainability.
- 10.4. Yuba will ensure that flow-measuring devices are acquired, installed and maintained to measure the quantities of groundwater actually being pumped for the Groundwater Substitution Component Water from wells identified in Section 10.1 of this exhibit. Yuba and the participating Member Units will be responsible for the distribution of water pumped under this Agreement within each participating Member Unit's boundaries. The Projects will not be responsible for any costs of installing, operating or maintaining groundwater pumping facilities or flow-measuring devices, or for any costs of conveying groundwater pumped to places of use within the participating Member Units' service areas pursuant to this Agreement. By the 15th day of every other month, Yuba will provide a report to DWR of the quantities of groundwater pumped from each well for the Groundwater Substitution Component Water during the previous reporting period under this Agreement.
- 10.5. Yuba will make arrangements for DWR and its representatives to have access to facilities and records of Yuba and its participating Member Units to the extent reasonably necessary to verify that the groundwater pumping, the management of such pumping and the implementation of the Groundwater

SWP #26851

Monitoring and Reporting Program for the Groundwater Substitution Component Water meet the requirements of Section 10 of this exhibit.

11. ACCOUNTING PREPARATION AND NOTIFICATIONS

- 11.1. **Accounting preparation for invoicing** - Yuba will prepare a draft accounting of the quantities of Released Transfer Water and the Delivered Transfer Water, utilizing information provided by DWR, as described in Section 7 of this exhibit, and Yuba will submit these calculations in a standard form to be developed by the Parties for review by the Technical Committee according to the schedules set forth in this Agreement. DWR representatives of the Technical Committee will provide written notification to Yuba within 20 days of receipt of the Transfer Accounting from Yuba whether it agrees with the accounting. If the Technical Committee agrees with the accounting, or if there has been no written notification by the 20th day, then Yuba will submit invoices to DWR as provided in this Agreement.
- 11.2. **Disputes on accounting amounts** – If there is a dispute between the Parties regarding accounting, then the Technical Committee will first meet and attempt to resolve the dispute, and submit the disputed accounting for final resolution by the Management Committee. For accounting disputes only, if the dispute cannot be resolved by the Management Committee, then the Parties will resolve the accounting dispute as provided in Section 21 ("Remedies and Dispute Resolution") of this Agreement.
- 11.3. **Maintaining Records of Accounting and Accounts** – Yuba will maintain a set of records for all accountings, and all back-up materials used to prepare the accountings, at Yuba's offices, and Yuba will make these records available to DWR upon request during normal business hours. DWR will maintain records of DWR's determination of Delta conditions and Project export capacity as described in Section 7.2.2 and make these records available to Yuba upon request during normal business hours.

11.4. Required Reporting

State Board Order – Long-Term Petition will require periodic reporting to the State Board of transfer operations including flows, diversions and groundwater pumping. Yuba will prepare and file the reports as required in State Board Order – Long-Term Petition. Certain information, including timing and rates of exported Delivered Transfer Water at the Projects' Delta Export Facilities, and diversions and storage

of the Delivered Transfer Water at the Projects' San Luis Reservoir, will be provided in a timely manner by DWR, in coordination with Reclamation, to Yuba.

EXHIBIT 2

RESERVOIR REFILL ACCOUNTING PROVISIONS

SECTION 1: GENERAL PRINCIPLES

DWR must be assured that the refilling of New Bullards Bar Reservoir resulting from purchase of water from Yuba by DWR or Third Parties will not impact the Projects. Such impacts could occur (according to DWR) if storage vacated by the transfer is refilled during Balanced or E/I controlled Conditions in the Delta. Yuba agrees that if there is an outstanding account of impacts after the Water Year reservoir refill period, then Yuba will release additional water during subsequent Balanced Conditions in excess of normal operating requirements to compensate for refill impacts. The following procedures for determining refill impacts and conditions for additional releases will be used in accounting for refill. DWR will work with Reclamation to allocate the impact account between the Projects. This exhibit includes the definitions set forth in **Exhibit 1** to this Agreement. In addition, when used in this exhibit, the following terms have the following definitions:

1. "Base Transfer" is the amount of Delivered Transfer Water released from New Bullards Bar Reservoir, as determined by the accounting rules in **Exhibit 1** to this Agreement, and which results in a storage amount in New Bullards Bar Reservoir that is lower than the storage that would have occurred under Baseline Conditions. Calculation of this amount is described in Section 5 of **Exhibit 1** to this Agreement.
2. "Impact Account" is the amount of water DWR would have obtained from the Yuba River in the absence of the transfer releases, but which DWR did not receive due to refilling of New Bullards Bar Reservoir. The amount of Impact Account water will be computed daily during the Refill Period based on Balanced Conditions.
3. "Refill Period" is from October 1 through September 30.
4. "E/I Control" means the export limits identified in SWRCB Water Rights Decision 1641 and may be controlling SWP and CVP exports from the Delta.
5. "Target Storage" is the maximum storage volume during the Refill Period at which Yuba would normally operate New Bullards Bar Reservoir without a water transfer. The Target Storage levels are as follows:

SWP #26851

- a. October 1 through October 31: linearly ramped from 705,000 acre-feet to 700,000 acre-feet.
 - b. November 1 through February 15: 700,000 acre-feet.
 - c. February 16 through March 31: linearly ramped from 700,000 acre-feet to 796,000 acre-feet.
 - d. April 1 through April 30: linearly ramped from 796,000 acre-feet to 896,000 acre-feet.
 - e. May 1 through May 31: linearly ramped from 896,000 acre-feet to 966,000 acre-feet.
 - f. June 1 through June 30: 966,000 acre-feet. This Target storage amount of 966,000 acre-feet may be slightly reduced because this amount is the top of conservation storage in New Bullards Bar Reservoir and releases may be made to avoid exceeding this storage amount. The Target Storage reduction will be made when releases from New Bullards Bar Reservoir are increased as storage reaches 996,000 acre-feet which demonstrates filling of the Reservoir.
 - g. During July 1 through September 29, Target Storage must be determined on a case-by-case basis as described in **Exhibit 1** to this Agreement.
6. "Actual Storage" is the amount of water physically in storage in New Bullards Bar Reservoir at any time.
 7. "Theoretical Storage" is the sum of: (1) Actual Storage on the day specified; and (2) Transfer Account Amount.
 8. When Actual Storage exceeds the Target Storage during the Refill Period, there will be no further refill impacts.
 9. The accounting procedure in Section 2 of this exhibit will be used to calculate the Impact Account. The general principles in Section 2 of this exhibit will be applied in accounting for any unusual operational conditions not set forth in the application example described below.
 10. If the Transfer Amount Account is not zero on September 30, then the remaining balance of the account will be carried forward to the subsequent

Water Year and the impact accounting will continue until the outstanding balance is eliminated. Exception: If the difference in storage between the Actual Storage and the maximum baseline storage on September 30 is less than the remaining balance of the previous year plus the Base Transfer (see item 1 above), then the transfer amount account will be reset to the difference between actual storage and the maximum baseline storage amount.

11. If there is an Impact Account balance, then Yuba will release water during Balanced Conditions on a schedule that is agreed to by the Parties at a time when such releases will not create or affect deficiencies in local deliveries or instream flows, and these releases will be coordinated with releases for other (if any) water transfers of Yuba. The water released to offset refill impacts will be delivered as Delivered Transfer Water by Yuba and the accounting provisions and refill conditions of this Section will apply to those quantities.
12. By July 31 of each year, the Parties will complete an accounting of the Impact Account.
13. If Project operations effectively reduce or eliminate a refill impact, the Impact Account balance may be adjusted to reflect that reduction or elimination subject to approval by the Projects.

SWP #26851

SECTION 2: ACCOUNTING PROCEDURES FOR DETERMINING NEW BULLARDS BAR REFILL IMPACTS ON THE PROJECTS

The following columnar description sets forth the format, criteria, and procedures to be used for the determination of combined impacts to the Projects due to changes in refilling New Bullards Bar Reservoir caused by the transfer to DWR. An example of the application is attached.

COLUMNAR DESCRIPTION

Column 1 - Date

Column 2 - New Bullards Bar Reservoir Actual Storage at 2400 hours.

Column 3 - Transfer Amount Account (Base Transfer for the year) lists transfer water for which impact accounting is yet to be made. It is the previous day's amount minus the previous day's impact volume. $Column\ 3_i = Column\ 3_{i-1} - Column\ 6_{i-1}$ any transfer amount account remaining after September 30 will be the initial (October 1) amount used in the subsequent Water Year.

Column 4 - Theoretical Storage indicates the operation of storage as it might have occurred in the absence of the transfer. It is the actual storage plus the Transfer Amount Account. $Column\ 4_i = Column\ 2_i + Column\ 3_i$.

Column 5 - Target Storage is a postulated level of storage, which New Bullards Bar Reservoir might not normally exceed. When Column 5 exceeds this level, it is postulated that the storage would be reduced to the Target Storage amount. The Target Storage is defined as follows: October 1 (705,000); October 2-October 31 (ramped linearly to 700,000) November 1-February 15 (700,000); February 16-March 31 (ramped linearly to 796,000); April 1-30 (ramped linearly to 896,000); May 1-31 (ramped linearly to 966,000); June 1-30 (966,000); July 1-September 29 – determined by hydrology.

Column 6 - Impact Volume indicates daily amounts of water that would be released to achieve the Column 5 Target Storage. $Column\ 6_i = (Column\ 4_i - Column\ 5_i)$ but not less than zero, and not greater than Column 3_i.

Column 7 - Delta Conditions are determined jointly by DWR and Reclamation in accordance with the COA. A "B" is listed if the Delta is declared to be in Balanced Conditions 3 days after the daily amounts are calculated, a "E" is listed when the Delta is declared to be in excess conditions 3 days after the daily amounts are calculated, and a "R" is listed when the Delta is

declared to be in excess with restricted conditions under E/I control 3 days after the daily amounts are calculated.

Column 8 - Delta Conditions Impact Factor is a factor to be applied to the Impact Volume to determine the Net Daily Impact. The Delta Conditions Impact Factor is 1 for Balanced Conditions, 0 for Excess Conditions and either 0.35 or 0.65 for Restricted Conditions under E/I control.

Column 9 - Net Daily Impact is the daily impact volumes when the Delta is in Balanced Conditions or in excess with restricted conditions under E/I control as indicated in Column 7. $Column\ 9_i = Column\ 6_i \times Column\ 8_i$.

Column 10 - Release to Eliminate Impact Account Balance is the daily amounts of Released Transfer Water Yuba and DWR agree to use for repayment of refill impacts.

Column 11 - Impact Account is the accumulation of Net Daily Impacts and Releases to Eliminate Impact Account Balance.
 $Column\ 11_i = Column\ 11_{i-1} + Column\ 9_i - Column\ 10_i$

EXHIBIT 3

GROUNDWATER MONITORING AND REPORTING PROGRAM

1. GROUNDWATER MONITORING

In cooperation with DWR, Yuba has monitored Yuba County groundwater conditions for many years, and many aspects of the groundwater resources are well known. Yuba and DWR have worked cooperatively to develop a groundwater substitution transfer monitoring and reporting program specific to Yuba County for past groundwater substitution water transfers. Yuba has also developed a Groundwater Sustainability Plan. The GSP formalizes a monitoring program that includes measuring water levels in wells that are part of a dedicated monitoring well network, a plan to expand the network, annual reporting provisions and other groundwater monitoring activities. Since 2005, Yuba has constructed 34 additional dedicated groundwater monitoring wells for this program and DWR has installed an additional 31 dedicated groundwater monitoring wells. Information gathered from the activities specified in the GSP, along with the activities described in this exhibit, will be used to assess effects of groundwater pumping on groundwater resources, and to provide reasonable assurances that any water pumped and accounted for as part of any groundwater substitution is in lieu of surface water delivered by Yuba to its Member Units. Yuba will continue to work with DWR and the Member Units to identify and resolve any new groundwater monitoring issues.

- A. The water levels in selected production wells geographically dispersed throughout each Member Unit participating in the groundwater substitution program will be measured by the Member Unit prior to the initial pumping for each year during which a groundwater substitution transfer will take place. Selection of these wells will be by mutual agreement by DWR and Yuba, in consultation with the Member Unit. Upon termination of pumping for the year, the water levels will be measured by the Member Units, and such measurements will continue on a monthly basis until water levels have recovered to the pre-pumping levels, or have stabilized or until the following April. Yuba will submit water-level measurements and related data to DWR's SGMA Data Portal, or CASGEM Online System, or successor data platforms.
- B. To supplement or implement the GSP-specified monitoring program, water levels in each Yuba-maintained monitoring well in the Yuba GSP monitoring network will be measured monthly by Yuba in each year during which a groundwater substitution transfer is to take place, commencing prior to the initial transfer pumping and no later than April 1st. Upon termination of

SWP #26851

pumping, the monitoring well water levels will be measured, and such measurements will continue on a monthly basis until the following April. DWR and Yuba will cooperate in obtaining these measurements. Yuba will submit water-level measurements and related data to DWR's SGMA Data Portal or CASGEM Online System, or successor data platforms.

- C. Readings of flow meters on the discharges of the wells will be recorded every month during the pumping period by Member Units for each production well. In addition, electric meter readings will be recorded by the Member Units or documented through billing statements that include energy readings, and made available to Yuba upon request by Yuba. The quantities of water pumped between successive readings will be calculated by Member Units and reported to Yuba.
- D. Electrical Conductivity ("EC") will be measured for water pumped from selected production wells at the initiation of pumping (or as soon thereafter as practicable), two months after the initial EC measurements and at the termination of pumping.

All monitoring data will be reported on an every-other-month basis, and in an annual final summary report prepared by Yuba that will evaluate the data collected during the groundwater substitution transfer program for that year. The final report will include water-level contour maps for the groundwater basin showing initial water levels and final, recovered water levels and a map of the change from the previous year.

2. MONITORING WELL WATER LEVEL OBJECTIVES

Model simulations of various pumping plans and resulting water levels will be used to plan pumping volume and pumping distribution for a groundwater substitution transfer. These modeled water levels will be compared to GSP-defined sustainable management criteria for groundwater levels to determine the amount of water that can be pumped within the sustainable yield of the basin without contributing to long-term overdraft and without resulting in significant unmitigated third-party impacts. The sustainable management criteria include minimum thresholds for groundwater levels, which define minimum groundwater levels at each representative monitoring well identified in the Yuba GSP. Further, the minimum threshold groundwater levels were used to establish the sustainable yield estimates for the North Yuba Subbasin and South Yuba Subbasin, thus maintaining groundwater levels above the minimum thresholds is expected to maintain long-term pumping volumes below the sustainable yield.

Yuba will provide DWR with any subsequent updates for the sustainable management criteria for groundwater levels for all representative monitoring wells.

3. GROUNDWATER PUMPING OPERATIONS PLAN

This Agreement sets forth the procedures by which the total amount of water to be transferred will be determined. A portion of the water will be from surface water and a portion may be provided through groundwater substitution pumping. Yuba will base the determination of the amount of water to be provided through groundwater substitution pumping (in consultation with the Member Units) by: (1) estimating the amount of surface water that will be transferred for the year by operation to the flow schedules in the Fisheries Agreement and the September 30 target New Bullards Bar Reservoir storage level; (2) determining the amount of water from groundwater substitution pumping that Member Units can make available through wells of farmers who are willing to participate in the program and whose farms are located within a participating Member Unit; and (3) determining the amount of water that can be pumped within the sustainable yield of the basin without contributing to long-term overdraft and without resulting in groundwater levels lower than water level objectives that causes significant unmitigated impacts to other groundwater users in the basin. With the above three considerations, Yuba will use the Yuba Groundwater Model, or a successor tool, to confirm the proposed pumping amount by estimating water levels at the conclusion of the groundwater substitution transfer.

If the estimated levels are above the minimum thresholds, then significant unmitigated third-party impacts will not be expected. If the estimated levels are below the minimum thresholds, then further examination of potential impacts and consultation with the Member Units will be required. Groundwater substitution pumping that would result in levels near the minimum thresholds will occur only if the Member Units agree to allow such pumping. Even if the determination is that estimated levels resulting from proposed pumping will be above the minimum thresholds, the Member Units still will be consulted, and each Member Unit must individually approve the proposed pumping in its area or such pumping will not occur. If the amount of proposed pumping that will not cause groundwater levels to drop below minimum thresholds cannot be confirmed using the procedures described above, then a lower amount of pumping that satisfies the conditions of this Section will be determined using these procedures. The Yuba Board reserves the right to restrict the maximum amount of groundwater substitution pumping and the right to resolve any disputes in the Water Advisory Group regarding maximum amount of groundwater pumping.

SWP #26851

4. THIRD-PARTY IMPACTS ACTION PLAN

The purpose of this Third-Party Impacts Action Plan is to describe actions that will be undertaken by Yuba and Member Units to respond to impacts to Third Parties that occur because of groundwater substitution pumping for transfers under this Agreement. Third Parties include local groundwater users that could be affected by fluctuations in groundwater levels because of the pumping of such groundwater substitution water. Yuba and the Member Units agree that prompt responses to and mitigation of potential impacts to Third Parties are an important requirement for Yuba's present and future groundwater substitution transfers.

This action plan includes a series of steps that will be taken to ensure that the Groundwater Substitution Component Water of this Agreement and the Yuba River Accord does not cause significant, unmitigated impacts to Third Parties. Under this action plan, groundwater substitution pumping must not produce significant unmitigated impacts on Third Parties, impacts must be identified and mitigated as quickly as possible, and there must be ongoing, open communications with affected Third Parties. Because not all potential impacts can be known in advance, this plan provides a process for responding to concerns expressed by local groundwater users who believe that their water-production facilities are being or will be impacted by groundwater substitution pumping under this Agreement and the Yuba River Accord.

As a contractual condition of a Member Unit participating in the Groundwater Substitution Component Water of this Agreement and the Yuba River Accord, the Member Unit will identify a contact person or persons who will be responsible for initially responding to a notification of a potential Third-Party impact, and take the other action specified in this Section. The contact person for a Member Unit will be the person designated by the Member Unit. The responsibilities of Yuba under this action plan will be carried out by the General Manager, or by a person designated by the General Manager. The contact persons for the Member Units will also serve on a Yuba Groundwater Substitution Program Advisory Group ("Advisory Group") for either the area north of the Yuba River or the area south of the Yuba River.

Upon either Yuba or the Member Unit receiving notification of a potential Third-Party impact, Yuba or the Member Unit will immediately notify the other party of the nature of the potential impact. The Member Unit will promptly (within one day) contact the Third Party and obtain all available information regarding the nature and extent of the potential impact, and provide that information to Yuba. The Member Unit also will regularly update Yuba on the status of the Member Unit's response.

If the Third Party is not within the boundaries of any Member Unit of Yuba, then Yuba will either: (a) determine if it is evident that the Third Party is in close proximity to the groundwater-production facilities within a Member Unit that are involved in the groundwater substitution program, and designate the Member Unit or Member Units responsible for responding to the potential impact; or (b) consult with the Advisory Group concerning which Member Unit or Member Units should be designated for responding to the potential impact.

After the Third Party has been contacted and the relevant information regarding the potential impact has been received, the Member Unit will develop an approach (subject to approval by Yuba) to: (a) determine whether the Third Party has actually been impacted by groundwater pumping by the Member Unit, and, if so; (b) mitigate for the impact. Yuba will be available to provide assistance to the Member Unit in developing the foregoing approach. Yuba and the Member Unit will consult with the applicable Advisory Group in developing the approach referred to in this Section.

Yuba will resolve any dispute concerning implementation of this action plan, including which Member Unit will be responsible for mitigating a potential impact, whether it is reasonably likely that there was a Third-Party impact, and the measures to be taken by the Member Unit to mitigate the impact. If a Member Unit fails to carry out its responsibilities under this action plan, then Yuba will be authorized (but not required) to perform the responsibilities of the Member Unit and recover its reasonable costs in doing so from the Member Unit, including deducting these costs from payments due the Member Unit for the groundwater substitution transfer. Yuba will consult with the applicable Advisory Group in carrying out its responsibilities under this Section.

It is the intention of this action plan that: (a) any Third-Party impact that is reasonably likely to have been caused by implementation of the groundwater substitution program will be promptly and substantially mitigated; (b) as to any Third-Party impact that is not reasonably likely to have been caused by implementation of the groundwater substitution program, the Third Party will be provided information to reasonably demonstrate the reasons that there were no impacts; and (c) Yuba, the Member Units and the Advisory Group will be involved in the implementation of this action plan. Actions that will be taken to mitigate an impact include, but are not limited to, deepening of the impacted Third Party's well or lowering of pump bowls, cessation of pumping in the area of the impacted well, and providing a temporary or permanent alternative water supply to the Third Party.

EXHIBIT 4**STATE OF CALIFORNIA – DEPARTMENT OF WATER RESOURCES****AGREEMENT FOR THE LONG-TERM PURCHASE OF WATER FROM YUBA COUNTY WATER AGENCY BY THE DEPARTMENT OF WATER RESOURCES****STANDARD CLAUSES**

Worker's Compensation Clause. Contractor affirms that it is aware of the provisions of Section 3700 of the California Labor Code which require every employee to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor affirms that it will comply with such provisions before commencing the performance of work under this Agreement.

Nondiscrimination Clause. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

Compliance with Laws, Regulations, Permit Requirements. Contractor shall at all times comply with, and require its contractors and subcontractors to comply with, all applicable federal and State laws, rules and regulations, permits and all applicable local ordinances, specifically including but not limited to environmental, procurement and safety laws, rules, regulations, permits and ordinances.

SWP #26851

Availability of Funds. Work to be performed under this contract is subject to the availability of funds through the State's normal budget process.

Audit Clause. For contracts in excess of \$10,000, the contracting parties shall be subject to the examination and audit of the State Auditor for a period of three years after the final payment under the contract (Government Code Section 8546.7).

Payment Retention Clause. 10% of any progress payments that may be provided under this contract shall be withheld per Public Contract Code Sections 10346 and 10379 pending satisfactory completion of all services under the contract.

Reimbursement Clause. If applicable, travel and per diem expenses to be reimbursed under this contract shall be at the same rates the State provides for unrepresented employees in accordance with the provisions of Title 2, Chapter 3, of the California Code of Regulations. Contractor's designated headquarters for the purpose of computing such expenses shall be: 1402 D Street, Marysville, California 95901-4226.

Drug-Free Workplace Certification. By signing this contract, the Contractor or grantee hereby certifies under penalty of perjury under the laws of the State of California that the Contractor or grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
2. Establish a Drug-Free Awareness Program to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace,
 - b. The person's or organization's policy of maintaining a drug-free workplace,
 - c. Any available counseling, rehabilitation, and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.

3. Every employee who works on the proposed contract or grant:
 - a. Will receive a copy of the company's drug-free policy statement, and
 - b. Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

This contract or grant may be subject to suspension of payments or termination, or both, and the contractor or grantee may be subject to debarment if the Department determines that: 1) the Contractor or grantee has made a false certification, or 2) the Contractor or grantee violates the certification by failing to carry out the requirements noted above.

Americans with Disabilities Act. By signing this contract, Contractor assures the State that it complies with the Americans With Disabilities Act (ADA) of 1990, 942 U.S.C.12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Conflict of Interest. Current State Employees: a) No officer or employee shall engage in any employment activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity or enterprise is required as a condition of regular State employment. b) No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.

Former State Employees: a) For the two year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. b) For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.

Child Support Compliance Act. For any agreement in excess of \$100,000, the Contractor acknowledges in accordance herewith, that:

1. The Contractor recognizes the importance of child and family support obligations and shall full comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to,

SWP #26851

disclosure of information and compliance with earning assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and

2. The Contractor, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department.

Air or Water Pollution Violation. Under the State laws, the Contractor shall not be: 1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; 2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) finally determined to be in violation of federal law relating to air or water pollution.

Union Organizing. For all contracts, except fixed price contracts of \$50,000 or less, the Contractor acknowledges that: by signing this Agreement the Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this Agreement and agrees to the following:

1. Contractor will not assist, promote or deter union organizing by employees performing work on a State service contract, including a public works contract.
2. No State funds received under this Agreement will be used to assist, promote or deter union organizing.
3. Contractor will not, for any business conducted under this Agreement, use any State property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the State property is equally available to the general public for holding meetings.
4. If Contractor incurs costs or makes expenditures to assist, promote or deter union or organizing, Contractor will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs, and that the Contractor shall provide those records to the Attorney General upon request.

Recycling Certification. Contractor shall certify in writing under penalty of perjury, the maximum, if not exact, percentage of recycled content, both post consumer water and

secondary waste as defined in Public Contract Code, Section 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero content. (PCC 10233, 10308.5, 10354)

ATTACHMENT B**DEPARTMENT OF WATER RESOURCES STANDARD CLAUSES
FOR
AGREEMENT FOR THE SUPPLY AND CONVEYANCE OF WATER
BY THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF CALIFORNIA
TO THE AGENCY
UNDER
THE DRY YEAR WATER PURCHASE PROGRAM**

Worker's Compensation Clause. Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700).

Nondiscrimination Clause. During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

SWP#26802

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

Compliance with Laws, Regulations, Permit Requirements. Contractor shall at all times comply with, and require its contractors and subcontractors to comply with, all applicable federal and State laws, rules and regulations, permits and all applicable local ordinances, specifically including but not limited to environmental, procurement and safety laws, rules, regulations, permits and ordinances.

Availability of Funds. Work to be performed under this contract is subject to the availability of funds through the State's normal budget process.

Audit Clause. Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

Compensation. The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

Drug-Free Workplace Certification. Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;

- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

Americans with Disabilities Act. Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

Conflict of Interest. Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

SWP#26802

1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

Child Support Compliance Act. For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

Air or Water Pollution Violation. Under the State laws, the Contractor shall not be: 1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; 2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) finally determined to be in violation of federal law relating to air or water pollution.

Recycling Certification. The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).