

ATTACHMENT 1

Request letter from CCWA to approve participation in the Yuba Accord Water Purchase Agreement

CCWA Board of Directors Memo

A Brief Summary of the Yuba River Accord



October 21, 2014

Mr. Tom Fayram
Deputy Public Works Director
Santa Barbara County Public Works Department
123 E. Anapamu Street
Santa Barbara, CA 93101

RE: Request for Approval of CCWA Participation in the Yuba Accord Water Purchase Agreement

Richard Shaikewitz
Chairman

Ed Andrisek
Vice Chairman

Ray Stokes
Executive Director

Brownstein Hyatt
Farber Schreck
General Counsel

Member Agencies

City of Buellton

Carpinteria Valley
Water District

City of Guadalupe

City of Santa Barbara

City of Santa Maria

Goleta Water District

Montecito Water District

Santa Ynez River Water
Conservation District,
Improvement District #1

Associate Member

La Cumbre Mutual
Water Company

Dear Tom:

At its September 25, 2014 meeting, the CCWA Board of Directors approved participation in the Yuba Accord Water Purchase Agreement ("Agreement"). Generally, the Agreement allows participating State Water Project Contractors to purchase water from Yuba County Water Agency under terms and conditions that are more fully explained in the attached background materials and contracts.

Each year during the calendar year 2016 to 2020 term of the Agreement that Yuba has determined water is available, the participating State Water Project Contractors may elect to purchase water under the various components of the Agreement. The participating Contractors are not obligated to purchase water, but have the ability should they so choose on an annual basis.

CCWA believes this Agreement provides another potential source of water supply to help meet the needs of our project participants and requests that the County of Santa Barbara execute Agreements on behalf of CCWA and its project participants.

There are no capital costs associated with this Agreement and no risk to the County as both the Transfer of Financial Responsibility agreement and the attached indemnification agreement specific to this Yuba Accord agreement indemnify the County fully.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray A. Stokes", with a long horizontal line extending to the right.

Ray A. Stokes
Executive Director

RAS





CENTRAL COAST WATER AUTHORITY

MEMORANDUM

September 4, 2014

TO: CCWA Board of Directors

FROM: Ray A. Stokes
Executive Director

SUBJECT: Yuba River Accord Water Purchase Agreement

SUMMARY

In 2008, the State Water Resources Control Board approved Water Right Order WR 2008-0025 adopting the Yuba River Fisheries Agreement flow standards for the Yuba River which also allowed Yuba County Water Agency (YCWA) to transfer up to 200,000 acre-feet of water in any year under terms of a Water Purchase Agreement between YCWA and the State and Federal projects.

The Water Purchase Agreement requires that the purchase price of the water offered by YCWA must be renegotiated in 2015, and DWR and the Federal contractor representatives are currently negotiating certain changes to the agreement.

CCWA did not participate in the original Water Purchase Agreement in 2008. However, during this renegotiation period, we have the opportunity to enter into the Agreement.

DISCUSSION

The attached report titled, "A Brief Summary of the Yuba River Accord with Proposed Contract Amendments" provides a brief background on the Yuba River Accord as well as proposed changes to the Water Purchase Agreement provisions and the pricing structure.

Generally, the Water Purchase Agreement allows the participating contractors to decide on an annual basis (depending on the water availability from YCWA), whether to purchase water under the various "components" of water. The participating contractors are not obligated to purchase the water, but have the option if they so desire.

Page 4 of the attached report shows the proposed pricing schedule, which is significantly higher than the prior prices due to the recent water market during this drought.

Part of the agreement provisions state that one or a group of contractors will provide an upfront payment of \$20 million to YCWA which will be a deposit against future payments due for purchased water. If CCWA chooses to participate in the Agreement, we could decide to pay a proportionate share of the \$20 million deposit, but it is not required. If we do not pay the upfront deposit, we will have to pay an annual interest payment to those contractors that do provide the initial \$20 million deposit.

During the first term of the Agreement, 21 of the 29 State Water Project Contractors participated in the Agreement. For the years 2008 to 2013, approximately 264,000 AF of water was provided by YCWA at a total cost of around \$42.5 million.

Had CCWA participated in the original Agreement, our share of the available water would be somewhere around 1.15%, but that percentage would vary each year based on whether the other participants purchased water under each component or not. However, assuming CCWA had participated each year for all water that was available, we would have received around 4,400 AF of water at an average cost of about \$164/AF over the six year term of the agreement.

If CCWA decides to participant in the Purchase Agreement, we must participate for our full Table A amount of 45,486 AF. In other words, we cannot opt into the program for a smaller share of our Table A amount for those CCWA project participants not wanting to participate. Therefore, if some CCWA project participants want to participate in the program and others do not, those that do elect to participate must agree that in any year in which CCWA decides to buy water from the program, all the water must be purchased by those participating project participants.

It is anticipated that each year water is made available, CCWA will notify all participating CCWA participants, determine the level of interest in purchasing water that year, notify the participants of our allocated share of the water for each component and then get firm commitments on purchasing the available water allocated to CCWA from those participating CCWA participants. We already have a structure in place under the CCWA Supplemental Water Purchase Program which calls for the execution of a "Binding Agreement to Purchase" which can be used for the Yuba Accord Water Purchases.

CONCLUSION

There is really no downside to participating in the Water Purchase Agreement. CCWA does not need to provide a portion of the upfront \$20 million deposit and if we do participate, we would only pay a small percentage of an estimated \$250,000 per year in interest costs to those contractors that do provide the initial deposit.

As the water becomes available, CCWA can decide on an annual basis whether it is advantageous to purchase the available water based on the available water supply, hydrology, etc.

If the CCWA Board approves participation in the Agreement, the Santa Barbara County Flood Control and Water Conservation District will have to approve the agreement as the Contractor with DWR.

RECOMMENDATION

CCWA staff recommends that the CCWA Board of Directors approve participation in the YCWA Water Purchase Agreement and authorize the Executive Director to request the Santa Barbara County staff to execute the Agreement on behalf of CCWA and its member agencies.

RAS

Attachments

A Brief Summary of the Yuba River Accord

The Yuba River Accord is a settlement of the issues related to State Water Resources Control Board Decision D-1644 and subsequent litigation regarding flow requirements on the Lower Yuba River. The Accord includes three major elements:

- (1) the **Fisheries Agreement**: an agreement between YCWA and DFG, and several environmental groups, with USFWS and NOAA Fisheries signing a letter of support (but not signatory to the Agreement), under which YCWA has revised the operation of the Yuba Project to provide higher flows in the lower Yuba River to protect and enhance fisheries and to increase downstream water supplies;
- (2) the **Conjunctive Use Agreements**: a set of agreements between YCWA and its member agencies (water agencies within Yuba County) for the implementation of a comprehensive program of conjunctive use and water use efficiency (groundwater management) that provides groundwater substitution supplies for transfer; and
- (3) the **Water Purchase Agreement**: an agreement between YCWA and DWR for purchase and transfer of certain YCWA Yuba River releases and groundwater substitution releases to DWR to benefit the CVP and SWP contractors and the Environmental Water Account.

All three of these agreements, plus other required agreements and approvals, are executed and have been in effect since 2008. The other agreements include a revised PG&E-YCWA power agreement and the DWR "Tier 3" agreements with the San Luis & Delta/Mendota Water Authority and 21 SWP contractors.

The SWRCB approved Water Right Order 2008-0025 on March 18, 2008, adopting the Yuba River Fisheries Agreement flow standards and allowing YCWA to transfer up to 200,000 acre-feet in any year, completing the Yuba Accord approval process.

Background

In 1989, the State Water Resources Control Board received a complaint regarding fishery protection and water right issues on the lower Yuba River. The SWRCB held hearings on the issues raised in this complaint, and in 1999, issued a draft decision. At the request of YCWA and DFG, subsequent hearings were postponed in order to provide the parties an opportunity to reach a proposed settlement regarding instream flows and further studies. The parties failed to reach agreement on a settlement and the SWRCB held additional hearings in the spring of 2000. A draft decision was issued in the fall of 2000 and was adopted as Decision 1644 on March 1, 2001.

Subsequent litigation led to withdrawal of Decision 1644 and issuance of Revised Decision 1644 (RD-1644) in July, 2003. These decisions established revised instream flow requirements for the lower Yuba River and required actions to provide suitable water

temperatures for Chinook salmon and steelhead and to reduce fish losses at water diversion facilities.

After the issuance of Decision 1644, the parties involved in the SWRCB proceedings expressed a desire to further negotiate the instream flows, flow fluctuations and water temperature issues on the lower Yuba River. The parties engaged in a collaborative, interest-based negotiation with numerous stakeholders, known as the Yuba River Accord. These negotiations resulted in the three agreements described above.

The parties agreed in principle to the terms for a water purchase agreement in 2004. Three Pilot Years of Accord fishery flows and water transfers to the EWA Program ensued while NEPA and CEQA requirements were met and other permits and approvals were obtained prior to the 2008 SWRCB order implementing the Accord.

Water Purchase Agreement

The Water Purchase Agreement extends through 2025, subject to a required renegotiation of pricing at the end of 2015. That negotiation has been completed, and Amendment 5 is pending execution in early December to implement those changes. YCWA's FERC license expires April 30, 2016, although annual extensions of the current license are likely. The provisions of annual licenses and a new long-term FERC license could affect water quantities and unit prices. (The Fisheries Agreement extends until a new long-term FERC license is issued.)

There are four blocks of water under the Accord:

1. **Component 1 Water** – 60,000 acre feet a year in all year types – priority to EWA – fully paid in the spring of 2008 with \$30,900,000 of EWA funds from Proposition 50 Chapter 7 D for delivery in 2008-2015, a total of 480,000 acre-feet. Following the termination of the EWA at the end of 2007, the water has helped offset Delta export reductions to benefit fish. Beginning in 2012 the Component 1 water has been shared equally with Reclamation.
2. **Component 2 Water** – 15,000 acre-feet in dry years at \$75 per acre-foot; 30,000 acre-feet in critical years at \$93.75 per acre-foot. This water is “put” water and DWR must buy it; it is shared equally among the SLDMWA and the group of SWP contractors unless they collectively decide otherwise, and is apportioned among the participating SWP contractors relative to Table A.
3. **Component 3 Water** – 40,000 acre-feet in low allocation years, as defined in the agreement. Under very low allocations (CVP 35% or below and SWP 40% or below) this water is a “put” and DWR must buy it; with slightly higher, but still low allocations (CVP at or below 45% or SWP at or below 60%), it is a “call” at DWR's option. DWR takes the “call” water when requested by the CVP or SWP contractors. The Component 3 Water is priced at the Phase 8 schedule (\$125/\$100/\$75/\$50/\$25 for

critical to wet years, respectively). This water is also shared equally among the SLDMWA and the group of SWP contractors unless they collectively decide otherwise, and is apportioned among the participating SWP contractors relative to Table A.

4. **Component 4 Water** – this water is additional water that may be offered in any year, but is supplied in greater quantity in the drier years by implementing groundwater substitution with YCWA's member agencies. Groundwater substitution can provide up to 90,000 acre feet in some dry years, but only for about two consecutive years. Yuba estimates the long-term safe annual yield of their groundwater basin at around 40,000 acre-feet. This water was originally priced the same as Component 3 water, and is shared equally among the SLDMWA and the SWP contractors unless they collectively decide otherwise and is apportioned among the participating SWP contractors relative to contract Table A amounts. In 2009 and 2010, the groundwater interests in YCWA balked at the Accord pricing, and amendments were put in place to price the water at \$250 and \$200 per acre-foot in those two years respectively. A price of \$190 per acre-foot was agreed for 2013 and \$475 per acre-foot was agreed for 2014. For the remaining years through 2020, annual pricing agreements will be negotiated for groundwater substitution water when it is requested.

Amendment 5, to be executed in late 2014, will simplify the components effective in 2016 by eliminating the Component 3 triggers, classifying all surface releases beyond Components 1 and 2 as Component 3 water, and classify all groundwater substitution water as Component 4. Component 1 water will be offered directly to Participating Contractors beginning in 2016. Component 1 will remain as 60,000 acre-feet in all year types, and Component 2 will remain as 15,000 or 30,000 acre-feet, in dry or critical year types, respectively.

The new Amendment 5 pricing schedule beginning in 2016 and extending through 2020 will be \$300/\$200/\$150/\$100/\$50 for critical to wet years, respectively, except that the consecutive dry and/or critical year price will be \$350 per acre-foot, and Component 2 water will be 80 percent of those rates. If third party sales by Yuba impair the quantity of Component 2 water, an equivalent discount will be credited to Component 1 supplies.

Dry year supplies to benefit CVP and SWP contractors can be up to 140,000 acre-feet in the years in which Component 2-4 water is made available. Total annual transfers are limited to 200,000 acre-feet under the terms of the SWRCB order.

The 60,000 acre-feet per year of Component 1 water can be moved through DWR's added 500 cfs July-September capacity at Banks pursuant to the Corps of Engineers permit. That water repays some of the export curtailments under the Biological Opinions.

SWP contractor dry year supply is moved through Banks under Article 55 and with priority pursuant to Article 12 (f) of the long-term water supply agreements as capacity is available. SLDMWA dry year supply is moved through Banks or Jones, depending on capacity, with a priority at Banks after all SWP supplies, and after Phase 8, CVC, Musco Olive, and Veterans Cemetery supplies.

The contractors purchasing the water are responsible for any conveyance costs and carriage and conveyance losses after the water leaves Marysville Gage. Project use energy is available for pumping and conveyance of the water for SWP contractors; CVP contractors or Reclamation supply power for any pumping of their water at Banks. South of the Delta the cost of water delivered into O'Neill also reflects DWR wheeling from Banks. From O'Neill south, it is the responsibility of the receiving contractor to pay any additional delivery costs.

If YCWA offers Component 3 "call" water or Component 4 water that the buyers do not take, YCWA may sell that water to others after ten days' advance notice to DWR, provided that sale will not impair YCWA's ability to deliver Component 1-4 water in the current or future years. (Amendment 5 expands these Yuba rights, and Yuba may also sell 10,000 acre-feet per year to third parties effective in 2016 after satisfying the Component 1 delivery obligation.)

In a Conference Year (exceptionally dry year with the North Yuba Index less than 500,000 acre-feet), there could be no transfer water available; the parties would meet and confer on the situation.

The participating SWP contractors and SLDMWA have been responsible for payment of (1) a fixed annual cost of \$250,000 for YCWA river management activities shared between participating SWP contractors and SLDMWA, with these annual amounts becoming credits to future purchases of Component 2-4 water; that charge is now eliminated by Amendment 5 effective in 2015; (2) up-front costs of YCWA's conversion of certain diesel-powered well pumps to electric motor-driven wells up to a total joint cost of \$1,000,000 to meet air quality regulations; and (3) operations and maintenance cost increases tied to operation of the groundwater extraction facilities compared to a 2006 base cost and indexed to the CPI (also being eliminated by Amendment 5).

Beginning in 2015, Participating Contractors will be responsible for an annual payment of \$350,000 prorated by the relative quantity of water each contractor is entitled to under the agreements that will be redistributed to those contractors that have funded a \$20,000,000 deposit towards surface water purchases beginning in 2016 in proportion to their contribution to that deposit.

Water Purchase Agreement Amendments

In early 2009, the Water Purchase Agreement was modified to correct a technical problem with reservoir refill accounting requirements (Amendment No. 1) and, as noted above, to provide a higher price for groundwater substitution water and for its delivery as Component 4 water to address pricing issues (Amendment No. 2) in light of high market prices for the 2009 Drought Water Bank supplies. A similar amendment (No.3) was also executed in early 2010 to address water market pricing issues. In early 2012, Amendment 4 was executed to simplify the annual pricing negotiations by eliminating the need for all 22 Participating Contractors to approve an amendment every year. In late 2014, Amendment 5 is expected to be executed to amend the pricing for water and make other changes to the program as noted above.