

Attachment No. 1

PRELIMINARY DRAFT

Mr. Kirby Brill
General Manager
Mojave Water Agency
13846 Conference Center Drive
Apple Valley, California 92307-4377

Mr. Matt Naftaly
Water Agency Manager
Santa Barbara County Flood Control
and Water Conservation District
130 East Victoria Street, Suite 200
Santa Barbara, California 93101-2019

This Letter Agreement, SWPAO #14009 (Agreement), is in response to Mr. Kirby Brill's letter dated July 21, 2014 requesting approval from the Department of Water Resources (DWR) for the delivery of up to 500 acre-feet of Mojave Water Agency's (MWA) approved State Water Project (SWP) water supplies to Santa Barbara County Flood Control and Water Conservation District (Santa Barbara) in 2014. In exchange, Santa Barbara will return to MWA its approved future allocation of SWP water supplies by December 31, 2019 based on an exchange ratio of 1 to 1. That is, for every acre-foot of water delivered to Santa Barbara in 2014, one acre-foot will be returned to MWA (up to 500 acre-feet), prior to December 31, 2019; DWR, MWA, and Santa Barbara may be referred to in this Agreement individually by name or collectively as "Parties."

Due to critically dry hydrologic conditions in 2014, Santa Barbara has an urgent need to acquire supplemental supplies for its customers within its service area. This exchange will ease the need by providing additional water to Santa Barbara.

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MWA, as lead agency under the California Environmental Act (CEQA), determined that this water exchange is exempt from CEQA and filed a Notice of Exemption (NOE) with the State Clearinghouse on July 29, 2014. DWR, as a responsible agency, has considered this document prior to entering into this Agreement. DWR will file an NOE based on California Environmental Quality Act Guidelines Section 15301 (Existing Facilities) upon execution of this Agreement.

DWR is willing to approve the delivery of up to 500 acre-feet of MWA's SWP supplies to Santa Barbara in 2014 in exchange for the return of Santa Barbara's approved future SWP supplies to MWA, subject to the following terms and conditions:

GENERAL PROVISIONS

1. DWR's approval under this Agreement is unique and shall not be considered a precedent for future agreements or DWR activities.
2. This Agreement shall become effective upon execution by all Parties and shall provide for the delivery of water to Santa Barbara by December 31, 2014. The return delivery of water to MWA shall be completed by December 31, 2019. This Agreement shall remain in effect until all return water is delivered to MWA or

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upon final payment to DWR of all costs attributable to this Agreement, whichever occurs later. However, the liability, hold harmless, and indemnification obligations in this Agreement shall remain in effect until December 31, 2023, or until any claim of litigation concerning this Agreement asserted to DWR, MWA, or Santa Barbara as of December 31, 2023 is finally resolved, whichever occurs later.

3. The delivery and return water under this Agreement shall be contingent upon, and subject to, any necessary approvals and shall be governed by the terms and conditions of such approval(s) and any other applicable regulations. MWA and Santa Barbara shall be responsible for complying with all applicable laws and regulations and for securing any required consent, permit, or order. MWA and Santa Barbara shall furnish to DWR copies of all approvals and agreements required for the delivery of water under this Agreement.

WATER DELIVERY FROM MWA TO SANTA BARBARA

4. DWR will deliver up to 500 acre-feet of MWA's approved SWP supplies to Santa Barbara's turnout in Reach 33A of the California Aqueduct by December 31, 2014.

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5. The delivery of a portion of MWA's approved SWP supplies to Santa Barbara shall be in accordance with a schedule reviewed and approved by Santa Barbara and DWR. DWR's approval is dependent upon the times and amounts of the delivery and the overall delivery capability of the SWP. DWR shall not be obligated to deliver the water at times when such delivery would adversely impact SWP operations, facilities, or other SWP contractors.
6. The sum of deliveries scheduled to Santa Barbara under this Agreement, plus scheduled Santa Barbara SWP water deliveries, plus deliveries to Santa Barbara under any other agreements, shall not exceed the quantities on which the Proportionate Use-of-Facilities factors are based under Santa Barbara's long-term Water Supply Contract with DWR unless DWR determines that deliveries will not adversely impact SWP operations, facilities, or other SWP contractors.

RETURN WATER DELIVERY FROM SANTA BARBARA TO MWA

7. DWR will deliver up to 500 acre-feet, based on a balanced exchange of 1 to 1, of Santa Barbara's future approved SWP supplies to MWA's turnouts in Reach 22B of the California Aqueduct by December 31, 2019.

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8. The delivery of Santa Barbara's return water to MWA under this Agreement shall be in accordance with a schedule reviewed and approved by MWA and DWR. DWR's approval is dependent upon the times and amounts of the delivery and the overall delivery capability of the SWP. DWR shall not be obligated to deliver the water at times when such delivery would adversely impact SWP operations, facilities, or other SWP contractors.
9. The sum of deliveries scheduled to MWA under this Agreement, plus scheduled MWA SWP water deliveries, plus deliveries to MWA under any other agreements, shall not exceed the quantities on which the Proportionate Use-of-Facilities factors are based under MWA's long-term Water Supply Contract with DWR unless DWR determines that deliveries will not adversely impact SWP operations, facilities, or other SWP contractors.

WATER DELIVERY SCHEDULES

10. All water delivery schedules and revisions shall be in accordance with Article 12 of Santa Barbara's and MWA's respective long-term Water Supply Contracts with DWR.

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11. Santa Barbara and MWA shall be responsible for coordinating and scheduling the water delivery with DWR as described in this Agreement. Santa Barbara and MWA shall submit a revised water delivery schedule to the State Water Project Analysis Office (SWPAO), Water Deliveries Section, indicating timing and point of delivery requested pursuant to this Agreement with reference to SWPAO #14009. Revised schedules shall be sent by electronic mail to: SWPDeliveries@water.ca.gov or by FAX to: (916) 653-9628, Attention: Chief, Water Deliveries Section.
12. MWA shall submit weekly water schedules for the delivery of water under this Agreement to the Southern Field Division, Water Operations Section, indicating timing and point of delivery requested with reference to SWPAO #14009. Schedules shall be sent by electronic mail to: SFDwaterschedule@water.ca.gov or by FAX to: (661) 294-3651, Attention: Chief, Water Operations Section.
13. Santa Barbara shall submit weekly water schedules for the delivery of water under this Agreement to the San Joaquin Field Division, Water Operations Section, indicating timing and point of delivery requested with reference to

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SWPAO #14009. Schedules shall be sent by electronic mail to:

SJFDwaterschedule@water.ca.gov or by FAX to (661) 858-0203,

Attention: Chief, Water Operations Section.

14. All weekly water schedules described above shall be submitted by 10:00 a.m. Wednesday, for the following week, Monday through Sunday.

15. Weekly water schedules shall also be concurrently sent by electronic mail or faxed to the State Water Project Operations Control Office:

a. Water Management Branch

Water_deliv_sched@water.ca.gov

FAX to: (916) 574-2785,

Attention: Chief, Water Management Branch

b. Power Management and Optimization Branch

Water_deliv_sched@water.ca.gov

FAX to: (916) 574-2785,

Attention: Chief, Power Management and Optimization Branch

c. Pre-Scheduling Section

Presched@water.ca.gov

FAX to: (916) 574-2782

Attention: Chief, Pre-Scheduling Section

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WATER DELIVERY RECORDS

16. DWR will maintain monthly records documenting the delivery of MWA's approved SWP water supplies to Santa Barbara under this Agreement, and the return of such water to MWA by Santa Barbara in future years. Santa Barbara and MWA shall certify to SWPAO the quantity of water delivered to Santa Barbara and the quantity of the return water to MWA under this Agreement by January 31st of the year following the actual delivery.

SWP ALLOCATION

17. Water delivered to Santa Barbara or MWA under this Agreement shall not be considered by DWR in the determination of approved annual Table A allocation or allocation of other SWP water to Santa Barbara and MWA under Article 18 of Santa Barbara's and MWA's long-term Water Supply Contracts with DWR.

NO IMPACT

18. This Agreement shall not be administered or interpreted in any way that would cause adverse impacts to SWP approved Table A water or to any other SWP

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approved water allocations, water deliveries, or SWP operations or facilities.

MWA and Santa Barbara shall be responsible, jointly and severally, as determined by DWR, for any adverse impacts that may result from the delivery of water under this Agreement.

CHARGES

19. Santa Barbara and MWA shall pay the following charges, including all future adjustments, which shall be calculated in the same manner as charges are calculated for SWP Table A deliveries and shall be in accordance with the provisions of Santa Barbara's and MWA's long-term Water Supply Contracts with DWR. Charges shall be determined for the year the water is delivered and the year the water is returned.

- a. When a portion of MWA's approved SWP supplies is delivered to Santa Barbara, Santa Barbara shall pay to DWR the charges associated with the delivery of the water from the Delta to Santa Barbara's turnouts in reach 33A of the California Aqueduct. Santa Barbara shall pay the Variable Operation, Maintenance, Power, and Replacement Component of the

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Transportation Charge and the Off-Aqueduct Power Facilities Cost for each acre-foot of water delivered to Santa Barbara's turnouts.

- b. In any year that a portion of Santa Barbara's future approved SWP supplies is returned to MWA under this Agreement, MWA shall pay to DWR the charges associated with the delivery of the return water to MWA's turnouts in Reach 22B in the California Aqueduct. MWA shall pay the Variable Operation, Maintenance, Power, and Replacement Component of the Transportation Charge and the Off-Aqueduct Power Facilities Cost for each acre-foot of water delivered to MWA's turnouts.
20. In addition to the charges identified above, MWA and Santa Barbara agree to pay to DWR any identified demonstrable increase in costs that would otherwise be borne by the SWP contractors not signatory to this Agreement or by DWR, as a result of activities under this Agreement.
21. Payment terms shall be in accordance with MWA's and Santa Barbara's long-term Water Supply Contracts with DWR, in their current forms and as amended in the future.

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LIABILITY

22. Responsibility for water delivered under this Agreement shall be governed by Article 13 of MWA's and Santa Barbara's Water Supply Contracts, with responsibilities for liabilities under the terms of that article shifting from DWR to the Parties when the water passes through their designated delivery points.
23. MWA and Santa Barbara agree to defend and hold DWR, its officers and employees, jointly and severally, harmless from any direct or indirect loss, liability, lawsuit, cause of action, judgment or claim, and shall indemnify DWR, its officers and employees, jointly and severally, for all lawsuits, costs, damages, judgments, attorney fees, and liabilities that DWR, its officers and employees incur as a result of DWR providing services under this Agreement, except to the extent resulting from the sole negligence or willful misconduct of DWR.
24. If uncontrollable forces preclude DWR from delivering water under this Agreement, either partially or completely, then DWR is relieved from the obligation to deliver the water under this Agreement to the extent that DWR is reasonably unable to complete the obligation due to the uncontrollable force. Uncontrollable forces shall include, but are not limited to earthquakes, fires,

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tornadoes, floods, and other natural or human caused disasters. MWA and Santa Barbara shall not be entitled to recover any administrative costs or other costs incurred under this Agreement if uncontrollable forces preclude DWR from delivering the water.

EXECUTION

25. This Agreement may be executed in counterpart. The parties agree to accept facsimile or electronic signatures as original signatures. The Agreement shall take effect as soon as all parties have signed.
26. Immediately after execution, MWA and Santa Barbara shall transmit a copy of the executed Agreement by facsimile or e-mail to Robert Cooke, Chief, State Water Project Analysis Office at (916) 653-9628 FAX or swpao-chief@water.ca.gov and to each other at:

MWA: (760) 240-2642 FAX, or kbrill@mojavewater.org

Santa Barbara: (805) 568-3434 FAX, or mnaftal@cosbpw.net

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If MWA or Santa Barbara requires a Board of Directors' approval of this Agreement, that party shall send a facsimile or electronic copy of the board approval to the other Parties.

If you have any questions or need additional information, you may contact
Geoff Shaw of my staff at (916) 653-9593 and refer to SWPAO #14009.

Sincerely,

Robert B. Cooke, Chief
State Water Project Analysis Office

ACCEPTED:

Mojave Water Agency

Santa Barbara County Flood Control
and Water Conservation District

Signature

Signature

Title

Title

Date

Date

cc: Mr. Terry Erlewine, General Manager
State Water Contractors
1121 L Street, Suite 1050
Sacramento, California 95814