



## MEMORANDUM

TO: SLDMWA Board of Directors, Alternates

FROM: Frances Mizuno, Assistant Executive Director

DATE: November 7, 2019

RE: Resolution Certifying the Long-Term Water Transfer Final Environmental Impact Report (SCH #2011011010), Adopting CEQA Findings of Fact, and Adopting a Mitigation Monitoring and Reporting Program

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### BACKGROUND

The Final Long-Term Water Transfers Environmental Impact Statement/ Environmental Impact Report (2015 Final EIS/EIR) was completed in March 2015. The 2015 Final EIS/EIR was challenged in United States District Court for the Eastern District of California in the case *AquAlliance, et al., v. U.S. Bureau of Reclamation, et al.* On July 5, 2018, the District Court entered judgment, vacating San Luis & Delta-Mendota Water Authority's (SLDMWA) decisions to approve the Final Long-Term Water Transfers EIS/EIR and approve the Proposed Action, vacating the 2015 Final EIS/EIR, and vacating the U.S. Fish and Wildlife Service's biological opinion. As a result, the Bureau of Reclamation (Reclamation) and SLDMWA released the Long-Term Water Transfers Revised Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS) in February 2019 to address the specific issues identified in the ruling. The RDEIR/SDEIS was released for a 45-day public review and comment period and written responses to comments were prepared as part of the 2019 Final EIS/EIR. The 2019 Final Long-Term Water Transfers EIS/EIR presents the entire document including revisions to the 2014 Draft EIS/EIR and the RDEIR/SDEIS in response to the public comments.

The proposed action is to certify the 2019 Final EIS/EIR to facilitate CEQA compliance for annual consideration of a range of potential voluntary water transfers from willing sellers upstream of the Delta to water users south of the Delta and in the San Francisco Bay Area (includes transfers to Contra Costa Water District and East Bay Municipal Utility District). Water users have the need for immediately implementable and flexible supplemental water supplies to alleviate shortages. Sellers, under this program, refers to water agencies north of the Delta. Additionally, projected transfer capacity at CVP and SWP facilities strongly influence participation in the proposed action. Therefore, the focus is on regional transfer volumes and in total rather than individual transfers.

The EIS/EIR analyzed a range of potential water transfers to CVP contractors over a 6-year period (2019-2024). These transfers may result from forbearance actions taken by the sellers and may include Base Supply and Project Water from willing sellers located upstream of the Delta. The

range of potential water transfers evaluated in the EIS/EIR represents only a portion of the expected overall water transfers in the central valley of California during the 6-year period.

Under the proposed action, up to approximately 250,000 AF of water can be made available for transfer each year from groundwater substitution, cropland idling/crop shifting, reservoir releases, or conservation, subject to annual review and approval by Reclamation. The attached Board Resolution provides additional details.

### **ISSUE FOR DECISION**

Whether the Board of Directors should adopt a resolution certifying the Long-Term Water Transfers Final Environmental Impact Report (SCH #2011011010), adopting CEQA Findings of Fact, and adopting a mitigation monitoring and reporting program.

### **RECOMMENDATION**

We recommend the Board adopt a resolution certifying the Long-Term Water Transfers Final Environmental Impact Report (SCH #2011011010), adopting CEQA Findings of Fact, and adopting a mitigation monitoring and reporting program.

### **ANALYSIS**

The Long-Term Water Transfers Final Environmental Impact Report is necessary to allow for timely and comprehensive CEQA review of continued water transfers as necessary from water users north of the Delta to members of the SLDMWA through from 2019-2024. The U.S. Fish & Wildlife Service after formal consultation with Reclamation issued a programmatic biological opinion on the Central Valley Project Long-Term Water Transfers Project (2019-2024) on May 17, 2019. Reclamation is scheduled to sign the Record of Decision by November 30, 2019.

### **IMPLICATIONS**

Without a long-term environmental document that comprehensively analyzes a range of potential water transfer activities, individual water transfers will be subject to preparation of one-year Environmental Assessments/Initial Studies for each year's water transfers. This process is time consuming and costly and may be less environmentally protective than the long-term view afforded by the Final EIS/EIR.

### **BUDGET**

No new expenditure is required.

**SAN LUIS & DELTA-MENDOTA WATER AUTHORITY**

**RESOLUTION NO. 2019-**

**RESOLUTION CERTIFYING THE 2019 FINAL LONG-TERM WATER TRANSFERS ENVIRONMENTAL IMPACT REPORT (SCH #2011011010), ADOPTING CEQA FINDINGS OF FACT, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM**

**WHEREAS**, the United States Bureau of Reclamation (“Reclamation”) as Lead Agency under the National Environmental Policy Act (“NEPA”) and the San Luis & Delta-Mendota Water Authority (“Water Authority”) as Lead Agency under the California Environmental Quality Act (“CEQA”) prepared and certified that certain joint Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report, Final March 2015 (“2015 Final EIS/EIR”) to facilitate potential annual and multi-year transfers of water from within the geographic boundaries of Sellers identified in the EIS/EIR to participating Water Authority Members, in the quantities and under the conditions considered in the EIS/EIR during the period from 2015 through 2024 (the “Project”); and

**WHEREAS**, the 2015 Final EIS/EIR was challenged in United States District Court for the Eastern District of California in the case *AquAlliance, et al., v. U.S. Bureau of Reclamation, et al.*, and on July 5, 2018, the District Court entered judgment, vacating SLDMWA’s decisions to approve the Final Long-Term Water Transfers EIS/EIR and approve the Proposed Action, vacating the 2015 Final EIS/EIR, and vacating the U.S. Fish and Wildlife Service’s biological opinion; and

**WHEREAS**, in compliance with the District Court’s judgment, Reclamation and the Water Authority released the Long-Term Water Transfers Revised Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS) in February 2019 to address the specific issues identified in the ruling. The RDEIR/SDEIS was released for a 45-day public review and comment period. The 2019 Final Long-Term Water Transfers EIS/EIR presents the entire document including revisions to the 2014 Draft EIS/EIR and the RDEIR/SDEIS in response to the public comments. Copies of the responses were sent to each public agency that commented on the EIS/EIR; and

**WHEREAS**, Findings of Fact and a Mitigation Monitoring and Reporting Program have been prepared in compliance with CEQA and are based on information contained in the Water Authority’s record of these proceedings as a whole, including but not limited to the 2019 Final Long-Term Water Transfers EIS/EIR.

**NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:**

Section 1. The facts stated in the recitals above are true and correct, and the Board so finds and determines.

Section 2. The Board hereby finds, determines, orders and resolves as follows:

Section 2.1 The Water Authority shall be the custodian of the documents and materials that constitute the record of the proceeding, consisting of the documents and materials set forth in Public Resources Code section 21167.6(e), and the record shall be retained and available for review at the principal office of the Water Authority at 842 6th Street, Los Banos, California.

Section 2.2. Pursuant to 14 California Code of Regulations Section 15087 (being referred to as “CEQA Guidelines” or “Guidelines”), the Water Authority as Lead Agency has undertaken the required procedures to comply with the notice and public participation requirements of CEQA.

Section 2.3. The Water Authority hereby finds that mitigation measures and monitoring and reporting requirements related to those mitigation measures have been incorporated into the Project to avoid and prevent significant adverse effects, and further finds as set forth below.

2.3.1 The mitigation measures and monitoring requirements incorporated into the Project are feasible and implementable as part of the Project and will avoid or reduce any potentially significant effects of the Project to a less-than-significant level.

2.3.2 The Water Authority hereby adopts and incorporates the described Mitigation Monitoring and Reporting Program (“MMRP”) included in **Exhibit A** to this Resolution.

Section 2.4 The Water Authority hereby adopts and incorporates **Exhibit B** to this Resolution, which sets forth Findings of Fact in accordance with Section 21081 of the California Public Resources Code and Section 15091 of the CEQA Guidelines, including findings that any potentially significant effects of the Project will be avoided or reduced to a less-than-significant level by identified and adopted mitigation and monitoring measures.

Section 2.5 The Water Authority intends to, and hereby does, adopt each of the mitigation measures and monitoring requirements identified in the 2019 Final EIS/EIR and finds that the MMRP included in Exhibit A to this Resolution and the CEQA Findings of Fact included in Exhibit B to this Resolution correctly describe those mitigation measures and monitoring requirements. In the event a mitigation measure or monitoring requirement identified in the 2019 Final EIS/EIR has been inadvertently omitted in either the findings or MMRP, such measure or requirement is hereby adopted and incorporated into the findings and MMRP by reference. In addition, in the event the language describing a mitigation measure or monitoring requirement in the findings or MMRP fails to accurately reflect the language in the 2019 Final EIS/EIR due to a clerical error, then the language of the commitments and measures set forth in the 2019 Final EIS/EIR shall control.

Section 2.6 The 2019 Final EIS/EIR has been presented to the Board as the decision-making body of the Lead Agency under CEQA, and the Board has reviewed and considered the information contained in the 2019 Final EIS/EIR and has exercised its independent

judgment in reviewing that information prior to considering or acting upon this Resolution and prior to approval of the Project.

2.6.1 Each of the facts and findings described herein is a correct description of events and facts and are based on substantial evidence found in the records and files of the Water Authority.

2.6.2 Each of the findings and determinations made herein reflects the independent judgment, analysis and determination of the Water Authority after the Water Authority's review and consideration.

2.6.3 The Water Authority hereby certifies pursuant to CEQA Guidelines sections 15089 and 15090 that the described 2019 Final EIS/EIR included in **Exhibit C** to this Resolution has been completed in accordance with CEQA.

2.6.4 The Water Authority determines that the potential transfer activities described in the 2019 Final EIS/EIR, subject to the conditions, agreements, policies, or criteria established by the Board, may be implemented consistent with the terms of the 2019 Final EIS/EIR.

2.6.5 A Notice of Determination substantially in the form of **Exhibit D** shall be filed with the County Clerks of the counties of Alameda; Butte; Colusa; Contra Costa; Fresno; Glenn; Kings; Merced; Placer; Sacramento; San Benito; San Joaquin; Santa Clara; Shasta; Solano; Stanislaus; Sutter; Tehama; Yolo; and Yuba within five (5) working days after the adoption of this Resolution approving the Project.

PASSED AND ADOPTED this \_\_\_th day of November, 2019, by the following vote:

AYES:

NAYS:

ABSTAIN:

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CANNON MICHAEL, Chairman  
San Luis & Delta-Mendota Water Authority

Attest:

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FEDERICO BARAJAS, Secretary

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I hereby certify that the foregoing Resolution No. 2019-\_\_ was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the \_\_th day of November, 2019.

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Federico Barajas, Secretary