



MEMORANDUM

TO: SLDMWA Board of Directors, Alternates

FROM: Frances Mizuno, Special Projects Administrator

DATE: December 9, 2021

RE: Resolution Ratifying Execution of Letter Agreement (No. 22-WC-20-5911) with the U.S Bureau of Reclamation Regarding Reimbursable Account for Assisting the San Luis & Delta-Mendota Water Authority and its Participating Members Effectuate Potential Water Transfers in 2022

BACKGROUND

The Water Authority has begun to work with potential North of the Delta sellers and the Bureau of Reclamation (Reclamation) on potential water transfers in 2022. The Water Authority is entering into Letters of Intent with potential sellers to purchase transfer water in 2022. Regular meetings are being held with seller representatives and Reclamation to prepare for these transfers. In order for Reclamation to work on these transfers, the Water Authority is required to enter into a letter agreement to establish a reimbursable account and provide an advance deposit to Reclamation. Reclamation's time will be charged to this account.

On November 16, 2021, the Water Authority Executive Director signed the attached Letter Agreement requested by Reclamation. This letter of Agreement is the initial step required by Reclamation to initiate 2022 water transfers discussions. In this letter, the Water Authority agrees to pay the costs incurred by Reclamation during their review and approval of the water transfer proposal for 2022. In addition to the attached letter, Reclamation is now requesting a supporting resolution.

ISSUE FOR DECISION

Whether to adopt the Resolution Ratifying Execution of Letter Agreement (No. 22-WC-20-5911) with the U.S Bureau of Reclamation Regarding Reimbursable Account for Assisting the San Luis & Delta-Mendota Water Authority and its Participating Members Effectuate Potential Water Transfers in 2022.

RECOMMENDATION

Staff recommends adoption of the proposed resolution.

ANALYSIS

Ratifying execution of the Letter Agreement will affirm the establishment of a reimbursable account that will allow Reclamation to assist the Water Authority in the water transfer effort. This account is necessary to enable Reclamation to provide the assistance necessary to approve needed water transfers.

BUDGET

Estimated cost will not exceed \$100,000. All costs are borne by the Long Term Water Transfer Activity Agreement members participating in 2022 water transfers.

ATTACHMENTS

1. Letter Agreement Number 22-WC-20-5911 (Agreement) – Reimbursable Account for Assisting the San Luis and Delta-Mendota Water Authority and its Participating Members Effectuate Water Transfers in 2022
2. Proposed Resolution Ratifying Execution of Letter Agreement (No. 22-WC-20-5911) with the U.S Bureau of Reclamation Regarding Reimbursable Account for Assisting the San Luis & Delta-Mendota Water Authority and its Participating Members Effectuate Potential Water Transfers in 2022



United States Department of the Interior



BUREAU OF RECLAMATION
Northern California Area Office
16349 Shasta Dam Boulevard
Shasta Lake, CA 96019-8400

November 15, 2021

Letter Agreement No. 22-WC-20-5911

IN REPLY REFER TO:

NC-442

2.2.4.22

Mr. Gerald Robbins
Special Projects Manager
San Luis and Delta-Mendota Water Authority
P.O. Box 2157
Los Banos, CA 93635

Subject: Letter Agreement Number 22-WC-20-5911 (Agreement) – Reimbursable Account for Assisting the San Luis and Delta-Mendota Water Authority and its Participating Members Effectuate Water Transfers in 2022

Dear Mr. Robbins:

Participating Members of the SLDMWA may experience water shortages in 2022 and are soliciting willing sellers to transfer surface water. A number of entities that use surface water from the Sacramento River have expressed interest in transferring up to 150,000 acre-feet of water, made available through groundwater substitution and/or crop idling/shifting actions, to the Participating Members. The SLDMWA would negotiate with the sellers, on behalf of the Participating Members, to identify potential transfers and the specifics of each transfer arrangement.

The willing sellers, who have Sacramento River Settlement Contracts with Reclamation, would then **submit a transfer proposal to Reclamation and, at the same time, request Reclamation's consent to the transfer.** Reclamation would then respond with a Letter of Agreement asking the willing seller to **remit funds, in advance, to provide for reimbursement of Reclamation's costs associated with review of the transfer proposal.** In order to streamline Reclamation's administration of the expected numerous reimbursable accounts, at the water transfer technical team meeting on November 9, 2021, Ms. Frances Mizuno requested a Letter of Agreement which would provide that SLDMWA would **reimburse Reclamation's costs associated with proposed transfers.**

The purpose of this letter is to obtain agreement from the SLDMWA to pay, in advance, the costs incurred by Reclamation, which may include, but are not limited to, review of the water transfer proposal; review of the Revised Environmental Impact Report/Supplemental Environmental Impact Statement and the Biological Opinion on Long-Term Water Transfers from 2015-2024 (Endangered Species Act review), prepared for this action to assure the proposed water transfer(s) conform to the types of transfer(s) proposed in that document; prepare the consent letter, if Reclamation determines it can consent to the proposed transfer(s); administer the water transfer(s); review final reports; and close out the water transfer(s).

By counter signing this letter agreement, the SLDMWA agrees to the following conditions:

INTERIOR REGION 10 • CALIFORNIA-GREAT BASIN

CALIFORNIA*, NEVADA*, OREGON*

* PARTIAL*

1. The SLDMWA shall submit to Reclamation an initial advance deposit of \$20,000 to be deposited into an account established for this action. Reclamation agrees the total costs to complete this process shall not exceed \$100,000 absent further written approval by the SLDMWA. If any mitigation is required for compliance with NEPA and/or ESA for this action, all costs associated with such mitigation will be the responsibility of the SLDMWA.
2. Upon written request, Reclamation shall provide the SLDMWA with a quarterly statement of account balance and a summary of expenses incurred by Reclamation in connection with this action. Whenever the account balance is \$10,000 or less, an additional deposit of \$20,000 will be required, and the SLDMWA shall pay such additional deposit to Reclamation within ten (10) days of notification by Reclamation. In the event Reclamation foresees expenditures in excess of the account balance, Reclamation shall notify the SLDMWA of the need for additional deposits in excess of the foregoing amount and shall provide the SLDMWA with a detailed itemization of anticipated expenditures, and the SLDMWA shall pay the amount requested to Reclamation within ten (10) days of the request.
3. At the SLDMWA's request, Reclamation shall provide a detailed record of actual costs incurred by Reclamation within sixty (60) days of such request.
4. This agreement is effective as of the date signed by the SLDMWA and will remain in effect until the transfer(s) are closed out or this letter agreement is terminated by either party upon thirty (30) days written notice to the other party, provided that the SLDMWA shall submit additional funds, **if needed, to pay Reclamation's costs up to date of termination. Any excess funds in the account will be refunded to the SLDMWA within sixty (60) days after termination of this letter agreement.**

Please have the appropriate individual sign this letter agreement and return the **letter agreement, along with documentation which authorizes the individual to sign on behalf of the SLDMWA**, to the Bureau of Reclamation, Northern California Area Office, Attn: Natalie Taylor, P.O. Box 988, Willows, CA 95988.

A down payment (DP) invoice will be forwarded to you via email from Ms. Yuki Darko at ydarko@usbr.gov or Mr. Johnathan Kruger at jkrueger@usbr.gov. Please remit the DP invoice and the check directly to the Reclamation Bank lockbox address imprinted on the invoice.

If there are any questions, please contact Ms. Natalie Taylor, Repayment Specialist, at 530-892-6275 or via email at ntaylor@usbr.gov.

Sincerely,

**RICHARD
ROBERTSON** Digitally signed by
RICHARD ROBERTSON
Date: 2021.11.15
12:14:56 -08'00'

Richard Robertson
Chief, Water and Lands Division



San Luis and Delta-Mendota Water Authority
EXECUTIVE DIRECTOR

Title

11/16/2021

Date

cc: Ms. Frances Mizuno

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2021-____

RESOLUTION RATIFYING EXECUTION OF LETTER AGREEMENT (NO. 22-WC-20-5911) WITH THE U.S. BUREAU OF RECLAMATION REGARDING REIMBURSABLE ACCOUNT FOR ASSISTING THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY AND ITS PARTICIPATING MEMBERS EFFECTUATE POTENTIAL WATER TRANSFERS IN 2022

WHEREAS, San Luis & Delta-Mendota Water Authority (“Water Authority) agricultural water service and repayment contractor members received an allocation of 0% of their full contractual supply for irrigation and 25% for municipal and industrial (“M&I”) for the 2021 water year; and

WHEREAS, current Central Valley Project Reservoirs’ storage levels are well below average with much uncertainty regarding Project water supply for water year 2022; and

WHEREAS, to assist its members, the Water Authority has initiated actions with the Bureau of Reclamation (“Reclamation”), and with certain Sacramento River water contractors (such contractors being referred to as the “North-of-Delta Sellers”) to make water available to members of the Water Authority during water year 2022; and

WHEREAS, pursuant to the National Environmental Policy Act (“NEPA”), Reclamation acting as Federal lead agency, and pursuant to the California Environmental Quality Act (“CEQA”), the Water Authority acting as State lead agency, prepared a joint Environmental Impact Report (“EIR”)/Supplemental Environmental Impact Statement (“SEIS”) entitled, “Long-Term Water Transfers,” analyzing the effects on the environment of a range of potential transfers over the 10-year period 2015-2024 (the Final Long-Term Water Transfers EIR-SEIS), including those to be implemented through a 2022 Water Purchase Program.

WHEREAS, pursuant to CEQA, on April 9, 2020, the Water Authority certified the Final Long-Term Water Transfers Environmental Impact Report, and adopted findings based on its record of proceedings showing that the potentially significant effects on the environment of a range of potential transfers over the 10-year period 2015-2024, including those to be implemented through a 2022 water purchase program, would be avoided or substantially reduced to less-than-significant levels; and

WHEREAS, to allow Reclamation to review and consider potential 2022 transfers, the Water Authority is required to enter into a letter agreement to establish a reimbursable account and provide an advance deposit to Reclamation; and

WHEREAS, on November 16, 2021, the Water Authority Executive Director executed Letter Agreement Number 22-WC-20-59110 (Agreement) - Reimbursable Account for Assisting the San Luis & Delta-Mendota Water Authority and its Participating Members Effectuate Water Transfers in 2022; and

WHEREAS, the Board of Directors of the Water Authority (the “Board”) has reviewed the Agreement, subject to the Agreement having been presented to the Board and being on file with the Secretary hereof; and

WHEREAS, independent from the CEQA compliance referenced above relative to potential water transfers, executing a letter agreement to establish a reimbursable account and provide an advance deposit to Reclamation does not constitute a project or projects under CEQA because the proposed actions represent administrative activities of the Water Authority that will not result in direct or indirect physical changes in the environment (Section 15378(b)(5) of the CEQA Guidelines); further, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the CEQA Guidelines); and

WHEREAS, the Board has previously authorized that certain Long Term North to South Water Transfer Program Activity Agreement, establishing the terms under which the benefits and obligations of the 2022 water transfer costs will be shared by the Activity Agreement Members, which has been executed by the Water Authority and its participating members.

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

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 ratifies the execution of the Letter Agreement previously signed on November 16, 2021 by the Water Authority’s Executive Director.

Section 3. The Executive Director, Chief Operating Office, and any Water Authority employees, consultants, or agents directed by the Executive Director are further authorized and directed to take such additional steps, and to execute such additional documents, as may be required or reasonably necessary or convenient for completing and implementing the activities authorized by this Resolution.

PASSED, APPROVED, AND ADOPTED this 8th day of December, 2021, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chairman
SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

Attest:

Federico Barajas, Secretary

I hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the San Luis & Delta-Mendota Water Authority, a California joint powers agency, at a special meeting of the Board of Directors thereof duly called and held on the 8th day of April, 2021.

Federico Barajas, Secretary