

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



6/8/2021

Ms. Anthea Hansen, General Manager
Oak Flat Water District
Post Office Box 1596
Patterson, California 95363

This Letter Agreement, SWPAO #20015 (Agreement), is in response to Oak Flat Water District's (OFWD) request dated April 1, 2020 to the Department of Water Resources of the State of California (DWR) for approval to deliver annually up to 70 acre-feet of OFWD's approved State Water Project (SWP) water supplies (OFWD's SWP Water) to a permanent turnout located at Milepost 42.90 of Reach 2A of the California Aqueduct (Western Hills Turnout). The Western Hills Turnout was constructed and is operated pursuant to a separate agreement executed June 8, 2000, "Agreement between the Department of Water Resources of the State of California, Kern County Water Agency, and Western Hills Water District for Construction, Operation, and Maintenance of the Western Hills Turnout A Permanent Turnout Within the California Aqueduct Right-of-Way. OFWD requested that Kern County Water Agency (KCWA) and Western Hills Water District (WHWD) permit OFWD to use the Western Hills Turnout for delivering OFWD's SWP Water. To that end, prior to or concurrent with the execution of this Agreement, OFWD plans to enter an agreement with KCWA and WHWD for the use of the Western Hills Turnout, titled Memorandum of Agreement Regarding Use of Turn Out From California Aqueduct ("Memorandum of Agreement"), and OFWD provided a draft of such Memorandum of Agreement to DWR on April 1, 2020.

WHWD, as the lead agency, has determined that the delivery of water to Western Hills Turnout under this Agreement is categorically exempt from the California Environmental Quality Act (CEQA) and will file a Notice of Exemption (NOE) with the State Clearinghouse after execution of this agreement. DWR, as a responsible agency, has determined that this activity is exempt from CEQA and will file an NOE based on the CEQA Guidelines Section 15301 (existing facilities) upon execution of this Agreement.

DWR is willing to approve the delivery annually of up to 70 acre-feet of OFWD's SWP Water to the Western Hills Turnout for subsequent delivery to OFWD's service area under the following terms and conditions:

TERM

1. This Agreement shall become effective upon execution by all Parties and shall terminate upon the expiration of OFWD's Water Supply Contract with DWR, or upon final payments to DWR of all costs attributable to this Agreement, whichever occurs later, unless terminated earlier pursuant to the provisions of this Agreement. However, the liability, hold harmless, and indemnification obligation in this Agreement shall remain in effect until the expiration of the

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applicable statute of limitations, or until any claim or litigation concerning this Agreement asserted to DWR or OFWD within the applicable statute of limitations is finally resolved, whichever occurs later.

UNIQUENESS OF AGREEMENT

2. DWR's approval under this agreement to convey annually up to 70 acre-feet of OFWD's SWP Water to the Western Hills Turnout for subsequent delivery to OFWD's service area is unique and shall not be considered a precedent for future agreements or DWR activities.

APPROVALS

3. The delivery of 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 approvals and any other applicable legal requirements. OFWD shall be responsible for complying with all applicable laws and legal requirements and for securing any required consent, approvals, permits, or orders. OFWD shall furnish to DWR copies of all approvals and agreements required for the delivery of water under this Agreement.
4. Prior to or concurrent with the execution of this Agreement by OFWD, OFWD shall enter into a Memorandum of Agreement for the use of the Western Hills Turnout with KCWA and WHWD, in substantially similar form to the draft Memorandum of Agreement provided to DWR on April 1, 2020. OFWD shall provide a copy of the executed Memorandum of Agreement to DWR within five business days after execution of this Agreement. Upon notice to OFWD, DWR shall have the right to terminate this Agreement immediately if OFWD does not enter into the Memorandum of Agreement in substantially similar form to the draft Memorandum of Agreement provided to DWR on April 1, 2020, or if such Memorandum of Agreement terminates or becomes invalid prior to the termination of this Agreement. OFWD shall inform DWR promptly about any such termination or invalidation of the Memorandum of Agreement.

WATER DELIVERY FROM OFWD TO WESTERN HILLS TURNOUT

5. DWR shall deliver annually up to 70 acre-feet of OFWD's SWP Water to the Western Hills Turnout, which shall be in accordance with a schedule reviewed and approved by 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.

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6. The sum of deliveries scheduled to the Western Hills Turnout under this agreement, plus scheduled OFWD SWP water deliveries, plus deliveries to OFWD under any other agreements, shall not exceed the quantities on which the Proportionate Use-of-Facilities factors are based under OFWD's Water Supply Contract with DWR unless DWR determines that deliveries would not adversely impact SWP operations, facilities, or other SWP contractors.

WATER DELIVERY SCHEDULES

7. All water delivery schedules and revisions shall be in accordance with Article 12 of OFWD's Water Supply Contract with DWR.
8. OFWD shall submit monthly water delivery schedules for approval to DWR's Operations and Maintenance Water Deliveries Section, indicating timing and point of delivery requested under this Agreement with reference to SWPAO #20015. Schedules shall be sent by electronic mail to SWPDeliveries@water.ca.gov.
9. OFWD shall submit weekly water delivery schedules by electronic mail by 10:00 a.m. Wednesday for the following week, Monday through Sunday, to the following:
 - i. State Water Project Operations Control Office
Water Management Branch
Water_deliv_sched@water.ca.gov
Attention: Chief, Water Management Branch
 - ii. State Water Project Operations Control Office
Power Management and Optimization Branch
POCOptimization@water.ca.gov
Attention: Chief, Power Management and Optimization Branch
 - iii. State Water Project Operations Control Office
Pre-Scheduling Section
Presched@water.ca.gov
Attention: Chief, Pre-Scheduling Section

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- iv. State Water Project Operations Control Office
Regulatory Compliance and Reporting Branch
OCO_car_reprt@water.ca.gov
Phone: (916) 574-2677
Attention: Chief, Reports Section
- v. Delta Field Division
Water Operations Section
FAX (209) 833-2049
Attention: Chief, Water Operations Section

WATER DELIVERY RECORDS

- 10. OFWD's meter is outside DWR's right-of-way and will not be owned, operated or maintained by DWR.
- 11. OFWD will coordinate with WHWD on water delivery schedules and actual delivery amount before submitting the water delivery schedules for DWR's approval.
- 12. DWR will maintain monthly records documenting the delivery of OFWD's SWP Water to the Western Hills Turnout under this agreement.

CHARGES

- 13. OFWD shall pay to DWR the charges associated with the delivery of water under this Agreement from the Delta to the point of delivery at the Western Hills Turnout at Milepost 42.90 of Reach 2A of the California Aqueduct which include but are not limited to:
 - a. The Variable Operation, Maintenance, Power, and Replacement Components of the Transportation Charge;
 - b. All other applicable payments under OFWD's Water Supply Contract, including the Off-Aqueduct Facilities Charges, and;
 - c. Any identified demonstrable increase in non-power 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.
- 14. Payment terms shall be in accordance with OFWD's Water Supply Contract with DWR.

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15. All payments under this Agreement not covered under OFWD's Water Supply Contract with DWR shall be due 30 days after the date of DWR's billing. DWR shall charge interest if payments are delinquent by more than 30 days. OFWD shall pay to DWR accrued interest on these overdue payments at the rate of one percent per month from the due date to the date of payment.

NO IMPACT

16. 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 approved water allocations, water deliveries, or SWP operations or facilities. OFWD shall be responsible as determined by DWR, for any adverse impacts that may result from the exchange or delivery of water under this Agreement.

LIABILITY

17. DWR is not responsible for the use, effects, or disposal of water under this Agreement once DWR delivers the water to the designated turnout(s). Responsibility shall be governed by Article 13 of OFWD's Water Supply Contract with responsibilities under the terms of that article shifting from DWR to OFWD when the water is delivered to the designated turnout(s).
18. OFWD agrees to defend and hold DWR, its officers, employees, and agents harmless from any direct or indirect loss, liability, lawsuits, cause of action, judgment or claim, and shall indemnify DWR, its officers, employees, and agents from all lawsuits, costs, damages, judgments, attorneys' fees, and liabilities that DWR, its officers, employees, and agents, 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, its officers, employees, and agents.
19. 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 to the extent that DWR is reasonably unable to complete the obligation due to the uncontrollable forces. Uncontrollable forces shall include, but are not limited to, earthquakes, fires, tornadoes, floods, and other natural or human caused disasters. OFWD shall not be entitled to recover any administrative costs or other costs associated with delivery of water under this Agreement if uncontrollable forces preclude DWR from delivering the water.

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EXECUTION

- 20. The Parties agree that this 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. The agreement shall take effect as soon as all Parties have signed.
- 21. If OFWD requires a Board of Directors' approval of this Agreement, it shall send an electronic file of the board approval to DWR prior to execution of this Agreement.
- 22. All Parties will receive an executed copy of this Agreement via DocuSign after all Parties have signed.

If the terms and conditions in this Agreement are acceptable, please sign and date using DocuSign. If you have any questions or need additional information, please contact Patrick Luzuriaga at (916) 653-9593 and refer to SWPAO #20015.

Sincerely,

John Leahigh

John Leahigh, Water Operations Executive Manager
Operations and Maintenance

ACCEPTED:

OAK FLAT WATER DISTRICT

Anthea Hansen

Name

General Manager

Title

6/8/2021

Date

Certificate Of Completion

Envelope Id: 9E752F664FBC4434AFF44314F407A726
 Subject: Please DocuSign: 20015.ofwd.delivery.docx
 Source Envelope:
 Document Pages: 6
 Certificate Pages: 5
 AutoNav: Enabled
 Envelope Stamping: Enabled
 Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Completed

 Envelope Originator:
 DWR SWPAO Executive Secretary
 1416 9th Street
 Sacramento, CA 95814
 SWPAOExecSecr@water.ca.gov
 IP Address: 136.200.53.23

Record Tracking

| | | |
|---|---|--------------------|
| Status: Original 6/8/2021 9:23:57 AM | Holder: DWR SWPAO Executive Secretary SWPAOExecSecr@water.ca.gov | Location: DocuSign |
| Security Appliance Status: Connected | Pool: StateLocal | |
| Storage Appliance Status: Connected | Pool: Department of Water Resources | Location: DocuSign |

Signer Events

John Leahigh
 John.Leahigh@water.ca.gov
 Water Operations Manager
 Department of Water Resources
 Security Level: Email, Account Authentication (None)

Signature

John Leahigh

 Signature Adoption: Pre-selected Style
 Using IP Address: 136.200.53.16

Timestamp

Sent: 6/8/2021 9:38:57 AM
 Viewed: 6/8/2021 9:39:45 AM
 Signed: 6/8/2021 9:40:35 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Anthea Hansen
 ahansen@delpuertowd.org
 General Manager
 Security Level: Email, Account Authentication (None)

Anthea Hansen

 Signature Adoption: Pre-selected Style
 Using IP Address: 12.189.125.90

Sent: 6/8/2021 9:40:36 AM
 Viewed: 6/8/2021 9:51:23 AM
 Signed: 6/8/2021 9:52:33 AM

Electronic Record and Signature Disclosure:
 Accepted: 8/19/2020 3:16:50 PM
 ID: 71145677-f9e5-443b-a62b-1849dadaea37d

| In Person Signer Events | Signature | Timestamp |
|------------------------------|-----------|-----------|
| Editor Delivery Events | Status | Timestamp |
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| Intermediary Delivery Events | Status | Timestamp |
| Certified Delivery Events | Status | Timestamp |
| Carbon Copy Events | Status | Timestamp |

DWR SWPAO Executive Secretary
 swpaoexecsecr@water.ca.gov
 Department of Water Resources
 Security Level: Email, Account Authentication (None)

COPIED

Sent: 6/8/2021 9:52:34 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

| Carbon Copy Events | Status | Timestamp |
|--|--------|---------------------------|
| James Edwards James.Edwards@water.ca.gov Department of Water Resources Security Level: Email, Account Authentication (None) | COPIED | Sent: 6/8/2021 9:52:34 AM |
| Electronic Record and Signature Disclosure: Not Offered via DocuSign | | |

| Witness Events | Signature | Timestamp |
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| Notary Events | Signature | Timestamp |
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| Envelope Summary Events | Status | Timestamps |
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| Envelope Sent | Hashed/Encrypted | 6/8/2021 9:38:57 AM |
| Certified Delivered | Security Checked | 6/8/2021 9:51:23 AM |
| Signing Complete | Security Checked | 6/8/2021 9:52:33 AM |
| Completed | Security Checked | 6/8/2021 9:52:34 AM |

| Payment Events | Status | Timestamps |
|----------------|--------|------------|
|----------------|--------|------------|

| Electronic Record and Signature Disclosure |
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Department of Water Resources (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Department of Water Resources:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by phone call: (916) 653-5791

To contact us by paper mail, please send correspondence to:

Department of Water Resources

P.O. Box 942836

Sacramento, CA 95236-0001

To advise Department of Water Resources of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at don.davis@water.ca.gov and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from Department of Water Resources

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to don.davis@water.ca.gov and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Department of Water Resources

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

| | |
|-------------------------|--|
| Operating Systems: | Windows2000? or WindowsXP? |
| Browsers (for SENDERS): | Internet Explorer 6.0? or above |
| Browsers (for SIGNERS): | Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above) |
| Email: | Access to a valid email account |

| | |
|----------------------------|--|
| Screen Resolution: | 800 x 600 minimum |
| Enabled Security Settings: | <ul style="list-style-type: none"> • Allow per session cookies • Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection |

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Department of Water Resources as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Department of Water Resources during the course of my relationship with you.