

Exhibit A

Addendum to the Delta Plan Programmatic Environmental Impact Report

September 2016



DELTA STEWARDSHIP COUNCIL

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Addendum to the Delta Plan Programmatic Environmental Impact Report

Section 1 Introduction

This Addendum addresses the proposal to extend the determination that water transfers of less than one-year in duration (referred to as single-year water transfers) do not have significant adverse impacts within the meaning of the Delta Reform Act, Water Code section 85000 *et seq.* (Delta Reform Act). This extension would have the effect of exempting single-year water transfers from review by the Delta Stewardship Council (Council). This Addendum discusses potential changes to extend a determination within the Delta Plan's implementing regulations that single-year water transfers occurring before December 31, 2016 do not have significant adverse impacts on the coequal goals, and therefore do not fit the statutory definition of a covered action. Accordingly, such water transfers would not be required to file a certification of consistency with the Delta Plan because that requirement only applies to covered actions. It also discusses potential changes to a related Delta Plan recommendation, Water Reliability Recommendation 15 (WR R15).

This Addendum builds upon the Programmatic Environmental Impact Report for the Delta Plan (Delta Plan PEIR), which includes the *Draft Programmatic Environmental Impact Report for the Delta Plan* published in November 2011, the *Recirculated Draft Programmatic Environmental Impact Report for the Delta Plan* published in November 2012, and the *Final Programmatic Environmental Impact Report for the Delta Plan* published in May 2013 (included in the Section 6, References, as Council 2013a). Under the California Environmental Quality Act (CEQA) Guidelines section 15164, an Addendum to a previously certified EIR is prepared if minor changes in the adopted project are proposed and none of the conditions in CEQA Guidelines section 15162 would occur.

This Addendum includes the following sections:

- Section 1 – Introduction.
- Section 2 – Project Description.
- Section 3 – Project History.
- Section 4 – Overview of Water Transfers.
- Section 5 – Environmental Checklist for Addendum to the Delta Plan Programmatic EIR.
- Section 6 – Response to Comments on the Draft Addendum.
- Section 7 – References.

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1 As discussed further in Section 5, an addendum is appropriate for the proposed amendments because they
2 would not result in new or substantially more severe environmental effects requiring major revisions to
3 the Delta Plan PEIR.

4 **1.1 Public Review of the Draft Addendum**

5 The Draft Addendum was published on the Council's website on May 12, 2016. Written comments on the
6 Addendum were accepted from May 12, 2016 through June 13, 2016. The comments received during this
7 period, along with written responses, are contained in Section 6 of this Addendum.

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Section 2 Project Description

The Sacramento-San Joaquin Delta Reform Act of 2009, Water Code section 85000 *et seq.* (Delta Reform Act) requires the Council to further the “coequal goals” by adopting a legally enforceable Delta Plan. It defines the coequal goals to mean “providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.” (Water Code section 85054.)

The Delta Reform Act gives the Council authority to enforce the Delta Plan by requiring any state or local agency that proposes to undertake a covered action to submit a certification of consistency with findings that set forth the reasons the covered action is or is not consistent with the Delta Plan. The Delta Reform Act defines the term “covered action” to refer, in part, to a project that “[w]ill have a *significant impact* on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta.” (Water Code section 85057.5(a)(4) [emphasis added]). The Delta Reform Act does not define the term “significant impact.”

In May 2013, the Council adopted the current Delta Plan (included in Section 6, References, as Council 2013b). It is a comprehensive long-term management plan for the Delta. It includes extensive descriptions and analyses of the problems facing the Delta, 14 regulatory policies and related definitions, that are binding, and 73 recommendations. The policies are found in the California Code of Regulations (CCR), 23 CCR section 5001 *et seq.*

Within the regulatory definitions, the Council included a definition for the term “significant impact.” That definition provides: “‘Significant impact’ for the purpose of determining whether a project meets the definition of a ‘covered action’ under section 5001(j)(1)(D) means a substantial positive or negative impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta, that is directly or indirectly caused by a project on its own or when the project's incremental effect is considered together with the impacts of other closely related past, present, or reasonably foreseeable future projects.”

The definition then determines that four categories of actions do not have a significant impact. One of these categories is for single-year water transfers occurring between the date of the adoption of the Delta Plan and December 31, 2016. Specifically, the definition states:

(dd) The following categories of projects will not have a significant impact for this purpose....

Temporary water transfers of up to one year in duration. This provision shall remain in effect only through December 31, 2016, and as of January 1, 2017, is repealed, unless the Council acts to extend the provision prior to that date. The Council contemplates that any extension would be based upon the California Department of Water Resources' and the State Water Resources Control Board's participation with stakeholders to identify and recommend measures to reduce procedural and administrative impediments to water transfers and protect water rights and environmental resources by December 31, 2016. These recommendations should include measures to address potential issues with recurring transfers of up to 1 year in duration and improved public notification for proposed water transfers. (23 CCR section 5001(dd)(3)).

This subsection of the regulation states the Council’s determination that single-year water transfers occurring within the designated time span would not have a significant impact on the coequal goals, and would therefore not fit the statutory definition of a covered action. Accordingly, such transfers would not be required to file certifications of consistency with the Delta Plan, because that requirement only applies

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1 to covered actions. Single-year water transfers occurring after the December 31, 2016 sunset date would
2 be subject to the Council’s review, provided that they meet all the statutory criteria for a covered action.

3 The Council took this approach toward single-year water transfers because, at the time it was developing
4 the Delta Plan, it had substantial evidence that single-year water transfers could have a significant impact
5 on the coequal goals, as well as substantial evidence that single-year water transfers would not have a
6 significant impact on the coequal goals. This evidence was comprehensive, informative, and authoritative,
7 but it was not conclusive. The Council thus attempted to strike a balance by exempting single-year water
8 transfers from review for the limited period after adoption of the Delta Plan and before the sunset date
9 while, in the meantime, collaborating with sister agencies and stakeholders to gather further information
10 about single-year water transfers and refine this subsection of the regulations.

11 In particular, the Council had questions about the cumulative impacts of single-year water transfers.
12 During the development of the Delta Plan, certain commenters stated that, even if single-year water
13 transfers did not have a significant impact on their own, they could have a significant impact in the
14 aggregate. These commenters raised this as a largely theoretical argument. They presented evidence that
15 single-year water transfers occurred, but not that their impacts were cumulatively significant. To account
16 for such potential cumulative impacts; however, the Council limited the duration of its initial exemption
17 for water-transfers to a period of approximately three years and seven months, thus limiting the extent to
18 which any potential cumulative impacts could occur.

19 In addition, certain commenters raised concerns that the same parties engaged in single-year water
20 transfers over the course of multiple years and that these single-year water transfers amounted to
21 recurring transfers that had the same magnitude of impacts and deserved the same level of scrutiny as
22 longer-term transfers. These commenters alleged that transferring parties structured what would otherwise
23 be longer-term transfer as series of single-year water transfers solely to avoid greater oversight. The
24 commenters presented evidence of the same parties engaging in multiple single-year water transfers, but
25 they presented no evidence regarding the parties’ intentions.

26 Although the alleged intentions of transferring parties would not affect whether their transfers would have
27 a significant impact on the coequal goals, the Council, as part of its diligence, investigated so-called
28 recurring transfers in further detail. Recurring water transfers were discussed at the Council meetings in
29 2015 (see Section 3.2, *Review of Single-year Water Transfers for Potential Changes in the Delta Plan*, in
30 this Addendum) and considered in several reports prepared by the Department of Water Resources
31 (DWR) and State Water Resources Control Board (SWRCB) (DWR and SWRCB 2015a, 2015b). These
32 discussions and reports found that recurring transfers may exist as a theoretical concept but not as a
33 practical reality. The presenters at the Council meetings explained that each transfer is unique with
34 respect to the water sources, volumes of transfer water available and needed, parcels of land participating
35 in providing and using the transferred water, and available capacity in State Water Project (SWP) and
36 Central Valley Project (CVP) facilities for cross-Delta water transfers. The water transferors and the users
37 of the transferred water need to annually assess the feasibility of water transfers with respect to a
38 determination of the availability of other water supplies that would be less costly and easier to obtain;
39 availability of SWP and CVP water supplies based upon the preliminary and final SWP and CVP water
40 allocations in March and April, respectively; and the availability of conveyance capacity in the SWP and
41 CVP facilities which is determined in April based upon final contract water allocations. Because these
42 factors change each year, there does not appear to be any pattern to the recurring use of the same methods
43 or geographic locations to provide transfer water under single-year water transfers.

44 At the same time, other commenters presented evidence regarding the important contribution of water
45 transfers to water supplies and the existing regulatory controls over water transfers (see Section 3.1,
46 *Single-Year Water Transfers in the Delta Plan*, of this Addendum). These same commenters raised
47 concerns that the need for single-year water transfers is often time-sensitive (due to growing seasons,

1 regulatory constraints, or other factors) and an appeal to the Council could prevent certain transfers from
2 proceeding according to the transferring parties’ preferred time frames.

3 To gather further evidence about single-year water transfers – including about potential cumulative
4 impacts and alleged recurring transfers – the Council included language in the definition of “significant
5 impacts” that encouraged the DWR, SWRCB, and others to develop recommendations for improvements
6 to the Council’s regulation of single-year water transfers. To incentivize the agencies to act quickly, and
7 to ensure that it received their recommendations before the end of the sunset period, the Council expressly
8 requested that the agencies provide their recommendations by December 31, 2016. In addition, the
9 Council adopted WR R15, which had similar language and similar aims, and which provided that:

10 *The California Department of Water Resources and the State Water Resources Control Board*
11 *should work with stakeholders to identify and recommend measures to reduce procedural and*
12 *administrative impediments to water transfers and protect water rights and environmental*
13 *resources by December 31, 2016. These recommendations should include measures to address*
14 *potential issues with recurring transfers of up to 1 year in duration and improved public*
15 *notification for proposed water transfers*

16 Pursuant to the Council’s requests, DWR and SWRCB consulted with the Council and provided it with
17 two specially prepared reports: (a) *Report on Background and Recent History of Water Transfers in*
18 *California*, and (b) *Water Transfers and the Delta Plan*. These reports complemented the materials that
19 the Council reviewed during the development of the original Delta Plan and that were included in the
20 administrative record for the original Delta Plan and Delta Plan PEIR.

21 Over the course of 2015, the Council discussed amending the single-year water transfers determination at
22 four meetings: July 23, September 24, November 19, and December 17. At these meetings, the Council
23 received additional information on single-year water transfers, including in the form of public comments
24 and in the form of presentations from subject matter experts, as described more fully in Section 3.2 of this
25 Addendum. Following this review, at its the December 17, 2015 meeting, the Council considered two
26 versions of the Proposed Project and adopted the description of one of them – known as Option 1 – for
27 the purpose of conducting environmental review. That description would amend the existing definition of
28 “significant impact” by eliminating the sunset date for the determination regarding single-year water
29 transfers. That amendment would change the definition as follows:

30 *(dd) “Significant impact” for the purpose of determining whether a project meets the definition of*
31 *a “covered action” under section 5001(j)(1)(D) means a substantial positive or negative impact*
32 *on the achievement of one or both of the coequal goals or the implementation of a government-*
33 *sponsored flood control program to reduce risks to people, property, and State interests in the*
34 *Delta, that is directly or indirectly caused by a project on its own or when the project's*
35 *incremental effect is considered together with the impacts of other closely related past, present,*
36 *or reasonably foreseeable future projects. The following categories of projects will not have a*
37 *significant impact for this purpose...*

38 *(3) Temporary water transfers of up to one year in duration. This provision shall remain in*
39 *effect only through December 31, 2016, and as of January 1, 2017, is repealed, unless the*
40 *Council acts to extend the provision prior to that date. The Council contemplates that any*
41 *extension would be based upon the California Department of Water Resources' and the State*
42 *Water Resources Control Board's participation with stakeholders to identify and recommend*
43 *measures to reduce procedural and administrative impediments to water transfers and*
44 *protect water rights and environmental resources by December 31, 2016. These*
45 *recommendations should include measures to address potential issues with recurring*
46 *transfers of up to 1 year in duration and improved public notification for proposed water*
47 *transfers.*

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1 Additionally, the description of the Proposed Project includes the following amendments to WR R15:

2 Enhanced Interagency Cooperation, Review and Reporting of Cross-Delta Water Transfers
3 Improve Water Transfer Procedures (WR R15). The California Department of Water Resources
4 and the State Water Resources Control Board should work with stakeholders to identify and
5 recommend measures to reduce procedural and administrative impediments to water transfers
6 and protect water rights and environmental resources by December 31, 2016. These
7 recommendations should include measures to address potential issues with recurring transfers of
8 up to 1 year in duration and improved public notification for proposed water transfers. In
9 coordination with the California Department of Fish and Wildlife, should memorialize in writing
10 by December 31, 2016, procedures that build upon, and make routine, the drought-related,
11 enhanced level of interagency cooperation and review of proposed cross-Delta water transfers.
12 The procedures should promote increased efficiency and flexibility, while ensuring the following:
13 (1) the protection of water rights and environmental resources; and (2) transparency and
14 accountability, including sharing of relevant information and standardizing public reporting on
15 cross-Delta water transfers.

16 2.1 Next Steps

17 If the Council adopts this addendum, it could consider whether to submit the proposed amendments to 23
18 CCR section 5001 *et seq.* and WR R15. If amendments to 23 CCR section 5001 *et seq.* are proposed by
19 the Council, the proposed amendments would be submitted to the State Office of Administrative Law for
20 its review and approval.

21

1 Section 3 Project History

2 3.1 Single-year Water Transfers in the Delta Plan

3 The Delta Plan recognizes that water transfers that occur in whole or in part in the Delta can be an
4 important tool for improving water supply reliability (Council 2013b). However, at the time it developed
5 the Delta Plan, the Council recognized the value of developing an interim approach to single-year water
6 transfers while it researched the issue further and refined its regulation. With this goal in mind, and in
7 light of the substantial evidence in the administrative record, the Council determined that single-year
8 water transfers occurring between the date of the adoption of the Delta Plan and the end of 2016 would
9 not have a significant impact on the coequal goals.

10 In reaching this determination, the Council was mindful that the Water Code declares that it is “the
11 established policy of this state to facilitate the voluntary transfer of water and water rights where
12 consistent with the public welfare of the place of export and the place of import” (section 109 (a)). It was
13 also aware that sister agencies already had frameworks for reviewing certain single-year water transfers.

14 Under these frameworks, most single-year, cross-Delta transfers must already be reviewed and approved
15 by SWRCB, DWR, and/or U.S. Department of Interior Bureau of Reclamation (Reclamation). Single-
16 year water transfers that are outside the jurisdiction of SWRCB but that use DWR’s conveyance
17 infrastructure must comply with CEQA. Similarly, single-year water transfers that use Reclamation’s
18 conveyance infrastructure must be evaluated under NEPA and CEQA. As discussed more fully below,
19 only a small percentage of cross-Delta or in-Delta single-year water transfers are not reviewed by
20 SWRCB, DWR, and/or Reclamation, and most of those transfers are still subject to CEQA review¹.
21 Finally, if the transfers implicate the California Endangered Species Act (CESA) or the Federal
22 Endangered Species Act (ESA), they would require consultation with the California Department of Fish
23 and Wildlife (DFW) or the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries
24 Service (NMFS).

25 3.1.1 Single-year and Longer-Term Water Transfers

26 The SWRCB must review and approve transfers of water that would occur under post-1914 water rights
27 and that would require amendments to those rights. The Water Code creates separate statutory schemes
28 for the SWRCB’s review of single-year water transfers and longer-term transfers. In general, the key
29 distinction between these two schemes is that single-year water transfers are entitled to a faster review
30 and are exempt from CEQA. The SWRCB may only approve single-year water transfers that would not
31 injure any legal user of the water or unreasonably affect fish, wildlife, or other instream beneficial uses.
32 The Council found relevance in the distinction between single-year and longer-term transfers and chose to
33 incorporate a similar distinction into its regulations.

34 3.2 Review of Single-year Water Transfers for Potential 35 Changes in the Delta Plan

36 At its March 25, 2015 meeting, the Council discussed a list of priority tasks to be completed in 2015. One
37 of those tasks was to Review and update Delta Plan Water Transfer policies and recommendations by
38 December 2015. This task includes two milestones: (a) working with DWR and SWRCB to demonstrate
39 compliance with WR R15, and (b) review temporary exemption for single-year water transfers and
40 recommend new or refined Delta Plan water transfer provisions with the acknowledgement that the
41 exemption would be eliminated, or sunset, after December 31, 2016.

¹ Water Code section 1729 creates a CEQA exemption for those single-year water transfers subject only to review by the SWRCB.

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1 In response to this priority task, the Council discussed amending the single-year water transfers
 2 determination at four meetings over the course of 2015: July 23, September 24, November 19, and
 3 December 17. At these meetings, the Council received additional information on single-year water
 4 transfers, including in the form of public comments and in the form of presentations from subject matter
 5 experts, as described in this section of this Addendum. Following this review, at the December 17, 2015
 6 meeting, the Council adopted a description of the Proposed Project for purposes of conducting
 7 environmental review as presented in this Addendum.

8 **3.2.1 July 23, 2015 Council Meeting**

9 At the July 23, 2015 Council meeting, an overview of water transfers in California and a summary of
 10 future panel discussions to present items identified in WR R15 were presented by Council staff (Council
 11 2015a). The overview discussion of water transfers described the need for water transfers to improve
 12 water supply reliability by moving water from geographical areas with available water supplies to
 13 geographical areas without adequate water supplies. A range of water transfer methods and applicable
 14 related regulatory processes was discussed for water conservation, groundwater substitution, crop idling
 15 and crop shifting, and reservoir storage modifications.

16 The information presented indicated that for single-year cross-Delta water transfers using DWR or
 17 Reclamation conveyance facilities, the transfer proposals need to be submitted to DWR or Reclamation
 18 for regulatory review, generally as early as January to allow for cross-Delta water transfers in July
 19 through September, as allowed under the 2008 USFWS and 2009 NMFS biological opinions.

20 The discussion also included risks that are inherent in water transfers. The *Background and Recent*
 21 *History of Water Transfers in California* report (DWR and SWRCB 2015a) was attached to the agenda
 22 packet. Information discussed at this Council meeting and additional related information are included in
 23 Section 4, *Overview of Water Transfers*, in this Addendum.

24 **3.2.1.1 Public Comments**

25 Public comments were provided at this meeting by Michael Jackson, representative for AquaAlliance, and
 26 John Mills, representative for upstream water agencies. The representative for AquaAlliance commented
 27 on the potential for reduced groundwater elevations due to the use of groundwater substitution methods.
 28 The comments included a discussion related to the interaction between reduced groundwater elevations,
 29 individual wells becoming dry, and elimination of ponded habitat areas that are supported by high
 30 groundwater. The AquaAlliance representative also commented about concerns related to the possible
 31 extinction of Delta smelt due to cross-Delta water transfers, and depletion of stream flows due to
 32 groundwater substitution methods. The representative requested participation in the future panel
 33 discussion at the Council related to single-year water transfers and suggested that representatives of
 34 California Sportfishing Protection Alliance and Delta farmers also be included in the panel discussion.

35 The representative for upstream water agencies stated that the upstream water agencies are interested in
 36 transfers; however, it must be recognized that recent actions could change future water resources,
 37 including the increased use of water conservation and development and implementation of Integrated
 38 Regional Water Management plans, recycle programs and headwater improvement programs. The
 39 upstream water agencies representative asked: (a) if the Council would consider options related to water
 40 transfers with or without assumptions for the Bay-Delta Conservation Plan; and (b) if the Council is
 41 aware of any problems with single-year water transfers in the past few years. The upstream water
 42 agencies representative commented that: (a) water transfer methods should include water conservation;
 43 and (b) the Delta Plan policies should reflect recent changes in regional water resources management
 44 which occurred during the drought and could affect future single-year water transfers.

1 **3.2.2 September 24, 2015 Council Meeting**

2 At the September 24, 2015 Council meeting, the Council staff discussed that water transfers have
3 contributed to portions of the statewide water supply reliability process, and that there are established
4 regulatory processes for review of most water transfers (Council 2015b). The discussion also included
5 references to the State of California Governor’s Executive Order issued on May 20, 2013 that directed
6 state agencies, including DWR and SWRCB, to expedite review and processing of water transfers. The
7 Governor’s Executive Order issued on April 25, 2014 reduced the SWRCB public noticing period
8 specified in Water Code section 1726(f) for single-year water transfers from 30 days to 15 days.

9 At this meeting, the Council convened three panels to discuss issues related to single-year water transfers,
10 as summarized below. The first panel focused on information compiled and evaluated by DWR and
11 SWRCB in accordance with WR R15. The second panel focused on potential impacts on the environment
12 related to water transfers. The third panel focused on typical schedules for water transfers and procedural
13 considerations.

14 **3.2.2.1 Panel 1: Information Compiled by DWR and SWRCB in Accordance with WR R15**

15 Panel 1 included Bill Croyle, DWR Deputy Director Statewide Emergency Preparedness and Security;
16 Jerry Johns, consultant to DWR; and Tom Howard, SWRCB Executive Director. The DWR and the
17 SWRCB representatives briefed the Council about their agencies’ consultations with stakeholders, water
18 transfer information compiled in the 2013-2015 time period, changes to water transfer review process in
19 the 2013-2015 time period, and recommendations for future water transfer processes, as recommended in
20 WR R15.

21 The DWR and SWRCB representatives provided two reports to the Council that were prepared by DWR
22 and SWRCB in accordance with the recommendations in WR R15: *Water Transfers and the Delta Plan*
23 (DWR and SWRCB 2015b) and *Background and Recent History of Water Transfers in California* (DWR
24 and SWRCB 2015a) (also included in the July 23, 2015 Council meeting agenda packet). The DWR
25 representative also provided the Council with the 2015 technical guidance document for single-year and
26 longer-term water transfers developed by DWR and Reclamation, the *Draft Technical Information for*
27 *Preparing Water Transfer Proposals (Water Transfer White Paper), Information for Parties Preparing*
28 *Proposals for Water Transfers Requiring Department of Water Resources or Bureau of Reclamation*
29 *Approval* (DWR and Reclamation 2015). The DWR representative explained that the *Water Transfer*
30 *White Paper*, which is not regulatory, is updated annually by DWR and Reclamation with recent
31 modifications to provide criteria and/or objectives to protect special status species (e.g. Giant Garter
32 Snake), manage remnant vegetation, and establish monitoring programs for land subsidence. The water
33 transfer review process was developed to protect all users in the Delta and upstream of the Delta where
34 cross-Delta water transfers originate. Water transfers involving water delivered by the SWP or using SWP
35 facilities must comply with the guidance in the current *Water Transfer White Paper* (DWR and
36 Reclamation 2015).

37 A representative of DWR presented a series of slides (DWR 2015a) and described information in the
38 written reports cited above. The DWR representative discussed changes that have occurred in the water
39 transfer process as a result of the Governor’s May 20, 2013 and April 25, 2014 Executive Orders that
40 directed DWR and the SWRCB to expedite the review and processing of water transfer applications.
41 These changes have included development and refinement of DWR’s water transfer website to increase
42 transparency of the water transfer process by providing information on the water transfer processes and
43 resources available to assist in developing water transfer proposals. DWR and SWRCB are currently
44 developing an on-line application website with robust geospatial information integrated with the website
45 to facilitate the review of water transfer applications. Information concerning proposed single-year water
46 transfers is shared among the SWRCB, Reclamation, and DWR, and the review process is initiated early
47 in the process.

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1 The DWR representative stated that DWR and SWRCB held a Listening Session on April 29, 2014 to
 2 solicit recommendations for streamlining the single-year water transfer process which was attended by 25
 3 individuals. Subsequent stakeholder meetings were held to discuss technical information and current
 4 water transfer issues. In late-summer 2014, DWR met with individual stakeholders to discuss successes
 5 and continuing issues with single-year water transfer proposals in 2014. Results from these meetings were
 6 used to improve the water transfer proposal review process, including early involvement by DWR and
 7 SWRCB management staff to streamline review of non-typical water transfer proposals. The DWR
 8 representative also discussed initiation of regular meetings of an interagency coordination team that
 9 includes DWR, SWRCB, Reclamation, USFWS, NMFS, and DFW to exchange information about water
 10 transfer proposals. The results from these meetings are used by SWRCB, DWR, and Reclamation in
 11 review of the water transfer proposals.

12 The DWR representatives discussed that DWR and Reclamation are developing a new modeling tool to
 13 more accurately estimate the streamflow depletion factor (see Section 4, *Overview of Water Transfers*, in
 14 this Addendum for discussion of this factor and other water transfer methods and processes). The DWR
 15 representatives discussed that DWR and Reclamation also initiated a Sacramento Valley Stream Flow
 16 Depletion Factor Management Group, starting in February 2015, to provide management and technical
 17 guidance to groundwater modeling improvements.

18 The DWR representative discussed that cross-Delta water transfers using existing conveyance facilities,
 19 including those owned by DWR and Reclamation, primarily occur in drier years when capacity is
 20 available and local water supplies are reduced. The DWR representative stated that water transfers
 21 involving SWP facilities generally occur when the annual SWP allocation provides less than 50 percent of
 22 SWP water contract amounts. Similarly, water transfers involving CVP facilities generally occur when
 23 the annual CVP allocation provides less than 40 percent of CVP water contract amounts.

24 A summary of total cross-Delta water transfers in 2014 and 2015 that used the DWR and/or Reclamation
 25 conveyance facilities was presented by the DWR representative. These include water transfers between
 26 SWP water contractors and between CVP water contractors, as summarized below:

27 • **2014**

- 28 ○ 419,690 acre-feet transferred cross-Delta through DWR and Reclamation's
 29 conveyance facilities.
- 30 ○ Approximately 25 percent transferred to municipal water users.
- 31 ○ Approximately 75 percent transferred to agricultural water users.
- 32 ○ Approximately 40 percent provided through reservoir re-operation.
- 33 ○ Approximately 35 percent provided through crop idling.
- 34 ○ Approximately 25 percent provided through groundwater substitution.

35 • **2015**

- 36 ○ 300,602 acre-feet transferred cross-Delta through DWR and Reclamation's
 37 conveyance facilities.
- 38 ○ Approximately 30 percent transferred to Municipal water users.
- 39 ○ Approximately 70 percent transferred to Agricultural water users.
- 40 ○ Approximately 28 percent provided through reservoir re-operation.
- 41 ○ Approximately 44 percent provided through crop idling.

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1 The DWR representative also discussed the need for carriage water provisions as part of cross-Delta
2 water transfers that rely upon SWP and/or CVP Delta conveyance facilities. The carriage water provisions
3 provide water to maintain Delta outflow and water quality, and with amounts calculated as a percentage
4 of the volume of cross-Delta water transfer. In 2014, DWR and Reclamation required 20 percent of the
5 cross-Delta water transfer to be provided for carriage water. DWR calculates carriage water losses for
6 cross-Delta water transfers annually.

7 The DWR representative described schedule constraints that were identified in the discussions with
8 stakeholders, such as the need for water transfers that use crop idling to be approved by April or May so
9 that farmers can implement planting decisions.

10 3.2.2.2 Panel 2: Potential Impacts on the Environment Related to Water Transfers

11 Panel 2 included Dr. Bruce Herbold, an Estuarine Ecology consultant; and Sandi Matsumoto, The Nature
12 Conservancy Associated Director of Integrated Water Management. Michael Jackson (who provided
13 public comments as a representative of AquaAlliance at the July 23, 2015 Council Meeting) had
14 requested to be part of this panel and was invited. However, Mr. Jackson did not appear for the panel
15 discussion.

16 The Estuarine Ecology consultant presented a series of slides (Herbold 2015) and discussed that single-
17 year water transfers appeared to be used as a response to emergency conditions that could have been
18 avoided if water supplies had been managed over a multiple year period rather than annually. The
19 Estuarine Ecology consultant discussed that by managing water supplies over multiple-year time periods,
20 storage could be conserved for two-year droughts, and water could be conveyed in the rivers downstream
21 of the SWP and CVP reservoirs in a manner to benefit fisheries. The Estuarine Ecology consultant also
22 discussed that water transfers during droughts could result in adverse impacts to Delta fisheries because
23 the flow patterns in the rivers would be altered at a time when fish are moving from the more saline
24 western Delta marshes into the rivers where freshwater occurs. The Estuarine Ecology consultant also
25 discussed that water transfers could result in potential adverse impacts to fisheries upstream of the Delta
26 related to streamflow depletion and increased water temperature effects. The Estuarine Ecology
27 consultant recommended avoiding the use of single-year water transfers by implementing multiple-year
28 water management methods to conserve storage across multiple years, avoiding water transfers during
29 droughts, and releasing transferred water in a manner to benefit salmon.

30 The representative from The Nature Conservancy presented a series of slides (TNC 2015) and discussed
31 that water transfers are an important tool for specific cases with the use of best available science to avoid
32 impacts. The Nature Conservancy representative stated that potential effects of water transfers were
33 related to the methods used to provide the transferred water, including loss of agricultural lands by crop
34 idling and loss of riverine, and loss of riparian and wetlands habitat due to streamflow depletion from
35 groundwater substitution methods. The Nature Conservancy representative discussed that water transfers
36 usually occur during droughts when the amount of cultivated acreage and refuge water supplies are
37 reduced due to lack of local water supplies; and therefore, water transfers further reduce the available
38 habitat. The Nature Conservancy representative discussed that the overall increase of groundwater
39 pumping in the Sacramento Valley (including groundwater substitution associated with water transfers)
40 has resulted in the reduction in groundwater elevations and associated reductions in surface water
41 elevations in nearby rivers and streams. The Nature Conservancy representative recommended that: (a)
42 further studies be conducted to understand the effects of water transfers on fish, birds, and animals that
43 depend on wetland habitat; (b) stream flow and groundwater monitoring be improved; and (c) further
44 studies be conducted to understand long-term surface water impacts that could occur in years following
45 groundwater pumping actions.

46 The Panel 2 participants responded to questions from the Council. The representative from The Nature
47 Conservancy discussed that water transfers could be used in a coordinated manner to improve water

1 supply reliability and improve habitat by providing some water for habitat and avoiding use of crop idling
2 or groundwater substitution in areas that could be adversely affected. The panelists discussed that
3 improved transparency related to water transfers would allow for more informed decisions. The use of
4 multiple-year water management methods and increasing measures to reduce groundwater impacts were
5 discussed by the panelists as methods to protect the Delta resources.

6 3.2.2.3 Panel 3: Typical Schedules and Procedures for Water Transfers

7 Panel 3 included Dustin Cooper representing entities that provide water for water transfers; Frances
8 Mizuno, San Luis & Delta Mendota Water Authority (SLDMWA) Assistant Executive Director; and
9 Steve Hirsch, Metropolitan Water District of Southern California (Metropolitan) Program Manager III.

10 The representative of water transferors presented a series of slides (Cooper 2015) and discussed that
11 existing laws and policies encourage water transfers; however, it is necessary to balance the regulatory
12 protections in the Water Code with a process that facilitates water transfers in a timely and effective
13 manner. The representative of water transferors discussed that the recent changes in the water transfer
14 processes implemented by DWR and SWRCB had improved the overall water transfer process; and that
15 requiring single-year water transfers to file certifications of consistency would result in duplicative efforts
16 and could extend the approval process over 150 days more than the SWRCB, DWR, and/or Reclamation
17 processes. The representative of water transferors discussed that most transfers are approved by April or
18 May to allow for crop idling or groundwater substitution decisions to be implemented at the beginning of
19 the irrigation season. With respect to recurring water transfers, the representative of water transferors
20 discussed that each transfer is unique because the water sources, volumes of transferred water, and the
21 annual assessment by sellers and buyers to determine: (a) what would be the availability of SWP and
22 CVP water allocations - which is not determined until April; (b) would the entities purchasing the
23 transferred water be able to obtain more reliable or less costly regional water supplies that will not require
24 limitations for cross-Delta water transfers; and (c) what would be the availability of conveyance capacity
25 in the SWP and CVP facilities – which cannot be known until the water allocations are determined in
26 April.

27 The representative of SLDMWA discussed that the annual demand for water transfers in their member
28 agencies in the San Joaquin Valley cannot be determined until March when preliminary SWP and CVP
29 water allocations are published or April when the final water allocations are published. The representative
30 of SLDMWA discussed that the SWP and CVP water allocations are used to determine the need for water
31 transfers and the availability of SWP and/or CVP conveyance capacity, which is generally not available
32 unless SWP allocations are 40 percent or less of contract amounts. The representative of SLDMWA
33 stated that DWR and SWRCB had improved the water transfer process, including changes to the *Water*
34 *Transfer White Paper* which is always issued in a draft version because the state of the knowledge is
35 always changing. The representative of SLDMWA discussed that due to the uncertainties for time delays
36 related to single-year water transfers, the SLDMWA worked with Reclamation to implement a water
37 transfer program which provides flexibility on an annual basis (Reclamation and SLDMWA 2015).

38 The representative of Metropolitan discussed the use of water transfers primarily in wet years to increase
39 stored water in regional surface water and groundwater storage facilities located to the south of the Delta.
40 The representative of Metropolitan addressed risks associated with water transfers that are defined for a
41 multiple-year period, including that: (a) the price of water and use of conveyance facilities could increase
42 over the long-term period; (b) the water transferors may decide not to make the water available in future
43 years; and (c) the available capacity in the SWP and CVP Delta conveyance facilities could be reduced in
44 the future due to increased regulatory criteria.

45 In response to questions from the Council, the panelists discussed that two-year water transfer programs
46 are generally not used because of the uncertainty of annual SWP and CVP water allocations, which effect
47 both the availability of transferred water and conveyance capacity in the SWP and CVP Delta facilities.

1 **3.2.2.4 Public Comments**

2 There were no public comments.

3 **3.2.3 November 19, 2015 Council Meeting**

4 The Council staff stated that the Delta Plan recognized that north-to-south cross-Delta water transfers can
 5 be an important tool for improving water supply reliability (Council 2013b, 2015c). However, the Delta
 6 Plan also recognized that that legal and institutional barriers appeared to be limiting the use of transfers,
 7 including the absence of a comprehensive, programmatic study of water transfers' environmental effects,
 8 which could provide a consistent, more reliable, and less time-consuming basis for assessing effects of
 9 water transfer on surface water, groundwater, wildlife habitat, and local economies. The Council staff
 10 discussed that potential effects of year water transfers over multiple years and single-year water transfers
 11 reviewed by DWR, but not reviewed by the SWRCB, are required to complete CEQA documents. Single-
 12 year water transfers that involve CVP contract water or CVP facilities are required to complete NEPA and
 13 CEQA documents. Single-year water transfers reviewed by the SWRCB are not required to complete
 14 CEQA documents, even if reviewed by DWR.

15 The Council staff summarized information presented at the September 24, 2015 Council meeting,
 16 information presented in reports provided by DWR to the Council as cited above, and information,
 17 including the following items:

- 18 • Environmental protections implemented by DWR and Reclamation for water transfers, as
 19 described in the annual *Water Transfer White Paper* (DWR and Reclamation 2015).
- 20 • Single-year water transfer approvals by DWR in 2014 and 2015:
 - 21 ○ In 2014, DWR approved 13 single-year water transfers.
 - 22 ▪ 7 water transfers (79 percent of the single-year water transfers
 23 conveyed through the SWP facilities) were not reviewed by the
 24 SWRCB, and required a CEQA analysis for DWR approval.
 - 25 ▪ 6 of the water transfers (21 percent of the single-year water transfers
 26 conveyed through the SWP facilities) were reviewed by the
 27 SWRCB, and did not require a CEQA analysis for DWR approval.
 - 28 ○ In 2015, DWR approved 5 single-year water transfers.
 - 29 ▪ 1 water transfer (10 percent of the single-year water transfers
 30 conveyed through the SWP facilities) was not reviewed by the
 31 SWRCB, and required a CEQA analysis for DWR approval.
 - 32 ▪ 4 of the water transfers (90 percent of the single-year water transfers
 33 conveyed through the SWP facilities) were reviewed by the
 34 SWRCB, and did not require a CEQA analysis for DWR approval.
- 35 • The volume of cross-Delta water transfers in 2014 was 419,690 acre-feet, or approximately 6
 36 percent of the total Delta inflow in 2014 (7,540,000 acre-feet). In 2015, single-year cross-
 37 Delta water transfers were 300,602 acre-feet, or approximately 3 percent of the total Delta
 38 inflow (9,410,000 acre-feet).
- 39 • Improved methods to expedite the review and processing of water transfers, especially single-
 40 year water transfers, including formalized interagency coordinated review of transfer
 41 proposals, and increased transparency of the water transfer review process using the websites.
 42 The Council staff discussed that DWR representatives stated at the September Council

1 meeting that there would be continued improvements in the websites to provide on-line
2 application processes and further improve transparency.

- 3 • Statements by DWR and SWRCB representatives that in their opinions single-year water
4 transfers involving the same water agencies in consecutive years involved the transfer of
5 different volumes of water, methods used to make the water available, and parcels of land;
6 and therefore, these types of single-year water transfers were not being used to avoid
7 additional analyses required of longer-term water transfers.
- 8 • In 2014, single-year cross-Delta water transfers that did not rely upon SWP or CVP facilities
9 included at least a 5,000 acre-foot water transfer by East Bay Municipal Utility District that
10 diverted the water from the Sacramento River at the Freeport intake. In 2015, there were
11 22,000 acre-feet of single-year cross-Delta water transfers that did not rely upon SWP or
12 CVP facilities.

13 The Council staff summarized the results of recent CEQA and NEPA analyses of water transfers related
14 to the effects of water transfers on the environment, including the following items:

- 15 • The recent NEPA and CEQA document prepared by Reclamation and SLDMWA
16 (Reclamation and SLDMWA 2015) concluded that water transfers over multiple years would
17 not have a significant impact on the Delta ecosystem because the transfers were required to
18 be compliant with the 2008 USFWS and 2009 NMFS biological opinions (see Section 4,
19 *Overview of Water Transfers*, of this Addendum, for additional information).
- 20 • The recent NEPA and CEQA document prepared by Reclamation and SLDMWA
21 (Reclamation and SLDMWA 2015) concluded that water transfers over multiple years would
22 not have a significant impact on groundwater and associated habitats following inclusion of
23 mitigation measures, such as use of a streamflow depletion factor.

24 The Council staff summarized information received during the September 24, 2015 Council meeting and
25 subsequent analyses related to the potential for increased salinity intrusion and entrainment of fish at the
26 SWP and CVP south Delta intakes related to single-year water transfers. The Council staff discussed that
27 conveyance of transferred water by the SWP and/or CVP would need to comply with the flow and water
28 quality criteria established by the SWRCB and by the USFWS and NMFS biological opinions. To
29 maintain the water quality, DWR and/or Reclamation would require a portion of the transferred water to
30 be used for Delta outflow as carriage water. Council staff discussed that they could not find any scientific
31 evidence indicating that cross-Delta water transfers under the existing regulatory criteria would contribute
32 to increased salinity in the western or central Delta or an increased risk of entrainment as compared to
33 conveyance of similar amounts of SWP and CVP water and long-term water transfers under the Lower
34 Yuba River Accord.

35 The Council staff summarized information provided by The Nature Conservancy representative at the
36 September 24, 2015 Council meeting that single-year water transfers could result in habitat changes due
37 to crop idling or reduction in shallow wetlands and stream flow due to groundwater substitution. The
38 Council staff summarized additional information provided by The Nature Conservancy following the
39 September 24, 2015 Council meeting which indicated that historic groundwater pumping for local uses as
40 well as groundwater substitution in the Sacramento Valley appeared to reduce stream flow by
41 approximately 700,000 acre-feet/year. The information provided by the Nature Conservancy indicated
42 that recently average groundwater pumping for all purposes was approximately 2,200,000 acre-feet/year.
43 In 2014, approximately 114,400 acre-feet was withdrawn under groundwater substitution actions for
44 single-year water transfers, or approximately 5 percent of the average groundwater pumping.

45 The Council staff also summarized information provided by the SLDMWA representative at the
46 September 24, 2015 Council meeting that supported the benefits of single-year water transfers.

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1 The Council staff summarized information presented at previous Council meetings related to the potential
 2 for future increases in water transfers, especially if conveyance facilities used for SWP and CVP water
 3 supplies are modified, such as proposed in the California WaterFix. The Council staff acknowledged that
 4 these future actions could change effects of single-year water transfers; however, these actions have not
 5 been fully developed or approved. The Council staff recommended that in the future, regular reports from
 6 DWR and SWRCB should be provided to the Council, and the effects of single-year water transfers on
 7 the coequal goals should be reconsidered as necessary.

8 Following this report, the Council staff provided the following two options to the Council for
 9 consideration.

- 10 • Option 1- amend the current regulation by lifting the sunset and making the determination of
 11 no significant impact for single-year water transfers permanent.
- 12 • Option 2 – leave the current regulation intact, allowing its determination of no significant
 13 impact for single-year water transfers to expire on December 31, 2016.

14 The Council staff also discussed potential related changes to WR R15 under either Option 1 or Option 2.
 15 The Council staff discussed that if Option 1 was ultimately proposed as a course of action by the Council,
 16 the Council also would need to consider completion of a CEQA document and modification of the
 17 regulation 23 CCR section 5001(dd)(3).

18 **3.2.3.1 Public Comments**

19 Public comments were provided by six commenters. Tim Stroshane, representative of Restore the Delta,
 20 requested the Council hold public hearings and complete an environmental impact report to address
 21 single-year water transfers. He encouraged the Council to include mandated annual reviews and to
 22 address cumulative effects of water transfers in the past years. He also was concerned with the cumulative
 23 effect of water transfers and the Bay Delta Conservation Plan [California WaterFix].

24 Bill Croyle, representative of DWR, provided a letter of support for Option 1, and indicated that DWR
 25 was committed to continuing the use and expansion of the open and transparent water transfer process and
 26 formalized integrated multiple-agency water transfer review program.

27 Steve Hirsch, representative of Metropolitan, stated support of Option 1 and the continued use of
 28 regulatory oversight by the SWRCB, DWR, and Reclamation. He stated that water transfers over
 29 sequential years have not been used by water entities as an attempt to avoid CEQA or covered action
 30 evaluations required for long-term water transfers. He discussed that long-term water transfers have not
 31 been generally implemented because they are risky to the purchasing entity due to potential adverse
 32 changes in water costs, available water supplies, and/or conveyance capacity in the SWP and CVP Delta
 33 facilities.

34 John Mills, representative of upstream water agencies, stated support of Option 1. He also stated that
 35 there are more upstream water transfers than cross-Delta or in-Delta water transfers. He discussed that
 36 future water transfer approaches could change as SWP and CVP Delta operations are modified due to
 37 various actions, such as implementation of the Sustainable Groundwater Management Act. He discussed
 38 that the determination of no significant impact for single-year water transfers could be reviewed in 5 years
 39 following continued collection of information by DWR and resolution of the future of the California
 40 WaterFix. He discussed that future single-year water transfers could be used more frequently between
 41 entities located upstream of the Delta; and long-term water transfers could become more frequent for
 42 cross-Delta water transfers. He also supported increased use of wastewater and stormwater recycling.

43 John Kingsbury, representative of Mountain Counties Water Resource Association, stated support of
 44 Option 1. He discussed that water transfers are an important source of revenue to allow small water
 45 agencies to replace aging infrastructure.

1 Melinda Terry, representative of North Delta Water Agency, discussed the need to develop a more
2 detailed definition of single-year water transfers. She also discussed future water resources management
3 changes that could affect single-year water transfers, including implementation of the Sustainable
4 Groundwater Management Act and decisions related to California WaterFix. Therefore, she requested that
5 the Council continue to require periodic reviews of single-year water transfers.

6 3.2.3.2 Council Comments and Decisions

7 Several Council members stated that potential cumulative effects of single-year water transfers could
8 result in changed conditions, and lead to the need to consider these water transfers as covered actions.
9 There was a discussion that the Delta Plan already is reviewed periodically at least every 5 years, and that
10 the periodic review could include an evaluation of single-year water transfers.

11 Following the discussion, the Council adopted a motion on a 4-to-2 vote directing Council staff to
12 develop a third option (Option 1(a)) for consideration at the December 17, 2015 Council meeting. The
13 third option would extend the current sunset date by 2 to 4 years from December 31, 2016. The Council
14 discussion also indicated that Option 2 would not need to be considered further.

15 3.2.4 December 17, 2015 Council Meeting

16 The Council's Executive Director, Jessica Pearson, presented results of the Council staff analyses,
17 including evaluation of a potential significant impact on the coequal goals based upon available evidence
18 as provided in white papers, testimony of experts and practitioners, and input from the Delta Science
19 Program (Council 2015d). She stated that, based upon this evidence, Council staff reached a preliminary
20 conclusion that single-year water transfers would not have a significant impact on the coequal goals.

21 The Executive Director then presented the Council proposals for the Council to consider evaluating under
22 CEQA:

- 23 • Option 1- amend the current regulation by lifting the sunset and making the determination of
24 no significant impact for single-year water transfers permanent.
- 25 • Option 1(a) – amend the current regulation by extending the determination of no significant
26 impact for single-year water transfers and postponing the sunset until December 31, 2019.

27 3.2.4.1 Public Comments

28 Public comments were provided by two commenters. Thaddeus Bettner, representative of Glenn-Colusa
29 Irrigation District (GCID), stated that in previous years, GCID had participated in water transfers in a
30 manner that provided habitat benefits. He discussed that GCID in previous years had worked with the
31 SWRCB and Reclamation to coordinate a water transfer that improved water temperatures for Winter-run
32 Chinook Salmon in the Sacramento River as part of the water transfer.

33 Eric Chapman, representative of the State Water Contractors, stated his support of Option 1, and
34 discussed the need for single-year water transfer decisions to be completed in the spring to accommodate
35 decisions by water transferors and entities that purchase the water.

36 3.2.4.2 Council Comments and Decisions

37 Following the public comments, the Council discussed Options 1 and 1(a). Two of the Council members
38 stated that there could be cumulative effects of single-year water transfers that may not be readily
39 apparent to the Council, and could lead to effects on the coequal goals unless periodic review occurred
40 under Option 1(a). However, other Council members discussed that the Delta Plan is periodically
41 reviewed at least every 5 years under the Delta Reform Act, and the Council could re-consider changes to
42 the Delta Plan at any time if new information became available. Following this discussion, the Council

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- 1 voted 5-to-2 to proceed with Option 1 as the Proposed Project for the purposes of environmental review
- 2 under CEQA (which is presented in this Addendum).
- 3

Section 4 Overview of Water Transfers

A water transfer is a voluntary change in the way water is normally distributed among water users in response to water scarcity. Water transfers can be either single-year or long-term changes in the point of diversion, place of use, or purpose of use of the water. Many transfers involve payment from the water user receiving the transferred water to the user providing the water. Other transfers are water exchanges, in which water is delivered by one water user to another water user, and the receiving water user returns the water at a specified time or when the conditions of the agreement are met. Water transfers occur in most years, but the volume of transferred water increases in drier years when areas with inadequate water sources seek additional water from areas with more supplies, and the capacity to convey transferred water in existing conveyance facilities is more available as compared to wetter years.

Water transfers can be formulated for three different periods of time depending on the short-term and long-term water supply plans of the parties providing the transferred water, including: (a) less than one-year in duration (referred to in this Addendum as single-year water transfers), (b) multiple years in duration, or (c) permanent water transfers whereby the seller gives up their legal right or contract for use of the water (DWR and SWRCB 2015a).

This section of this Addendum describes:

- Section 4.1 – Water Transfer Methods (description of types of actions used to provide transferred water).
- Section 4.2 – Approvals of Water Transfers (description of approval process and requirements for water transfers as required by the SWRCB, DWR, and Reclamation).
- Section 4.3 – Recent Cross-Delta Water Transfers.

4.1 Water Transfer Methods

Methods used by sellers to make transferred water available include water conservation, crop idling, crop shifting, groundwater substitution, and reservoir re-regulation, as summarized below.

- **Water Conservation** methods include a wide range of actions, such as installation of efficient irrigation systems or replacement of water supplies with recycled wastewater or stormwater.
 - Water transfers developed with water conservation methods are based upon the measured volume of water previously used consumptively. For example, the amount of water evaporated from surface irrigation methods that is saved by installation of drip irrigation can be transferred. However, water accounted for in agricultural return flows or water that percolates into a useable groundwater aquifer cannot be transferred.
 - Water transfers based on water conservation by agricultural water users generally provide water in the spring and summer months during the irrigation season. Water transfers based on water conservation by municipal water users could be available throughout the year
 - Water transfers based on water conservation methods, generally do not result in changes cultivated acreage. As described above, water conservation methods could include changes in irrigation equipment (e.g. use of drip irrigation instead of spray irrigation). Water conservation methods also could include changes in irrigation patterns that may result in less water used per

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- 1 plant based upon production practices without changing the overall cultivated
2 and irrigated acreage.
- 3 ○ The amount of reduction in consumptive use must be measurable and
4 verifiable.
- 5 • **Crop Idling** methods provide water through reduction in irrigated crop acreage during the
6 growing season on an annual basis. Crop idling methods do not include long-term changes in
7 irrigated acreage or land fallowing.
- 8 ○ Water transfers developed with crop idling methods are based upon reduction
9 in consumptive use. Therefore, the amount of water that can be transferred is
10 equivalent to the amount of water that can be reduced through
11 evapotranspiration of applied water (also known as ETAW, or the portion of
12 the applied water that is: a) evaporated from the soil, b) evaporated from the
13 plant surfaces, and c) actually used by the crops) . However, water accounted
14 for in agricultural return flows or water that percolates into a useable
15 groundwater aquifer cannot be transferred.
- 16 ○ Water transfers based on crop idling generally provide water in the spring
17 and summer months during the irrigation season. However, the farmers must
18 decide whether to cultivate or sell the water through single-year water
19 transfers early in the spring prior to the planting period.
- 20 ○ Crop idling methods could result in changes in agricultural resources,
21 biological resources, and local socioeconomics. In the *Long-Term Water*
22 *Transfers Environmental Impact Statement/Environmental Impact Report,*
23 *Final (Long-Term Water Transfer EIS/EIR)* (Reclamation and SLDMWA
24 2015), potential impacts due to crop idling methods included: (a) idling of
25 lands classified as Important Farmland under the California Department of
26 Conservation Farmland Mapping and Monitoring Program; (b) loss of water
27 in irrigation and drainage canals or in rice fields that provided habitat
28 (especially for snakes, turtles, and/or birds); and (c) loss of agricultural-
29 related employment. Mitigation measures that were presented in the cited
30 environmental document included avoidance of idling of parcels classified as
31 Important Farmland or critical parcels used by some special status species;
32 and maintenance of a minimum amount of water in canals and on rice fields.
- 33 • **Crop Shifting** methods provide water through cultivation of a crop with a lower water
34 demand than crops historically planted on the same land parcels.
- 35 ○ Water transfers developed with crop shifting methods are based upon
36 reduction in consumptive use. The amount of reduction in consumptive use
37 must be measurable and verifiable. However, water accounted for in
38 agricultural return flows or water that percolates into a useable groundwater
39 aquifer cannot be transferred.
- 40 ○ Water transfers based on crop shifting generally provide water in the spring
41 and summer months during the irrigation season. However, the farmers must
42 decide which crops to cultivate or whether to sell the water through single-
43 year water transfers early in the spring prior to the planting period.
- 44 ○ Water transfers based on crop shifting methods generally do not change the
45 total amount of cultivated acreage. However, the types of crops may be

- 1 changed from higher water use crops to lower water use crops (e.g.
2 cultivating onions instead of tomatoes). Crop shifting also could involve
3 changing from irrigated crops to non-irrigated crops.
- 4 ○ Crop shifting methods would not affect use of lands classified as Important
5 Farmlands. However, crops shifting methods could result in similar effects
6 on biological resources as crop idling methods if the substitute crops did not
7 provide similar habitat conditions.
- 8 • **Groundwater Substitution** methods provide water by not diverting a portion or all of
9 surface water used for irrigation and increasing groundwater pumping.
- 10 ○ Water transfers developed by groundwater substitution methods are based
11 upon the amount of surface water not diverted minus a streamflow depletion
12 factor. The streamflow depletion factor reflects the reduction in streamflow
13 due to the additional pumping associated with the transfers using
14 groundwater substitution methods. The streamflow depletion factor is
15 determined annually by DWR and Reclamation based upon annual
16 hydrologic conditions and published in the annual *Water Transfer White*
17 *Paper*.
- 18 ○ Water transfers based on groundwater substitution generally provide water in
19 the spring and summer months during the irrigation season.
- 20 ○ Water transfers based on groundwater substitution methods generally do not
21 change the total amount of cultivated or irrigated acreage. The surface water
22 supplies are replaced with groundwater supplies.
- 23 ○ Groundwater substitution methods could result in potential changes in air
24 quality, biological resources, and groundwater resources. The (Long-Term
25 Water Transfer EIS/EIR) (Reclamation and SLDMWA 2015) determined
26 that potential impacts due to groundwater substitution methods included: (a)
27 increased use of air quality and greenhouse gas emissions if diesel engines
28 were used to a greater extent or duration of time to power groundwater
29 pumps; (b) loss of water in shallow wetlands habitat (especially for snakes,
30 turtles, and birds) due to reduced shallow groundwater elevations and ponded
31 water at the soil surface; and (c) reduced groundwater elevations. Mitigation
32 measures that were presented in the cited environmental document included
33 mandated use of electricity to power groundwater pumps; maintenance of a
34 minimum amount of water in wetlands; and implementation of monitoring
35 and mitigation plans to assess groundwater conditions during and following
36 the water transfer.
- 37 • **Reservoir Storage Release, or Reservoir Re-operation** methods provide water by changing
38 storage and flow release patterns from reservoirs. Reservoir re-operation methods can be
39 implemented with or without other methods to make the transferred water available.
- 40 ○ Water transfers developed by reservoir re-operation methods are generally
41 made available by the release of stored water that would remain in storage in
42 the absence of the water transfer. Storage reduction caused by a transfer must
43 be refilled at a time when downstream users would not have otherwise
44 captured the water.

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- 1 ○ Water transfers developed by reservoir re-operation methods can be made
2 available by an entity that reduces surface water diversions (e.g. water
3 conservation or groundwater substitution), and the volume of surface water
4 not diverted would be maintained in an upstream reservoir to be released at a
5 different time than would have been needed for the water transferor.

- 6 ○ Water transfers based on reservoir-reoperation methods would not result in
7 changes in cultivated acreage unless the water transfer method also included
8 crop idling. Crop idling would result in changes to irrigated acreage during
9 the growing season each year that the water transfer method was
10 implemented.

- 11 ○ Reservoir re-operation methods could result in multi-purpose benefits, such
12 as improved stream flows during specified times of the year as well as for the
13 user of the transferred water.

- 14 ○ Reservoir re-operation methods could reduce the ability to refill the reservoir
15 in late fall and winter months if the transferred water is stored and not
16 released until the following spring. Reservoir re-operation methods also
17 would change stream flow patterns downstream of the reservoir. The Long-
18 Term Water Transfer EIS/EIR (Reclamation and SLDMWA 2015)
19 determined that potential changes due to reservoir re-operation would be
20 within normal operational ranges of the reservoirs and the streams
21 downstream of the reservoirs, and the potential changes would be less than
22 significant

23 **4.1.1 Construction Activities and Water Transfers**

24 Construction activities that related to water transfers could occur in the geographical area that provides
25 the transferred water or in the geographical area that uses the transferred water. The feasibility of
26 construction activities is dependent upon the long-term reliability of the transferred water method which
27 is related to the duration of the water transfer. The need for construction activities also could be related to
28 the use of the transferred water.

29 **4.1.1.1 Longer-term Water Transfers**

30 Water transfers that involve a specific amount of water transferred over multiple years or different
31 amounts of water over several years may include construction of new facilities to make the transferred
32 water available (e.g., drip irrigation systems or wells for groundwater substitution methods), or facilities
33 to convey or store the transferred water by the water transferor or user. Longer-term water transfers,
34 depending upon the duration of the water transfer, also could result in community growth which would
35 result in associated construction.

36 Decisions to construct new facilities are generally dependent upon availability of time to plan, design, and
37 construct the facilities within the duration of the water transfer, and economic decisions that consider time
38 to recover costs over the life of the operations of the facilities which may be dependent upon the duration
39 of the water transfer. Construction of new facilities would need to be evaluated in CEQA and NEPA
40 documents either as separate projects or as part of the longer-term water transfers.

41 **4.1.1.2 Single-year Water Transfers**

42 Single-year water transfers are developed on an annual basis, including determination of specific methods
43 to provide the water for transfer, parcels that would participate in the water transfer, and volume of water
44 to be made available. These decisions for the water transfer proposal to the regulatory agencies are
45 generally made by March or April when the demand for water transfers and available capacity at the SWP

1 and CVP facilities are determined. The water transfer proposals are generally approved by April or May
2 so that farmers can make decisions related to changes in crop idling or shifting or groundwater
3 substitution. This stringent time schedule does not provide adequate time to construct facilities prior to
4 the water transfers.

5 Single-year water transfers cannot be used to support community growth, because while such water
6 transfers are generally implemented during drier conditions to supplement local supplies to meet existing
7 demand, the water transfer supply is not reliable. In addition, it is typically not feasible to construct
8 facilities to make water available solely for a single-year water transfer. Historically, single-year water
9 transfers also have been used to increase stored water in local reservoirs and groundwater banks during
10 wet years and provide irrigation water to reduce the use of groundwater by agricultural water users (DWR
11 and SWRCB 2015a, 2015b).

12 Therefore, single-year water transfers historically have not included construction activities (Reclamation
13 and SLDMWA 2014). When new facilities are constructed to manage or use water provided through
14 multiple-year or multiple single-year water transfers, those facilities have been evaluated in separate
15 CEQA and NEPA documents.

16 4.2 Approvals of Water Transfers

17 The SWRCB, DWR, and Reclamation are required to review many of the water transfers in California
18 depending upon the type of water rights held by the party transferring the water, methods used to convey
19 the transferred water, and duration of the water transfer. As discussed in this section, many of the water
20 transfers are required to complete CEQA and NEPA analyses, including longer-term water transfer
21 approved by the SWRCB, DWR, and/or Reclamation; single-year water transfers approved by
22 Reclamation; and single-year water transfers approved by DWR but not by the SWRCB. Many of the
23 water transfers are evaluated in accordance with requirements that the water transfers would not result in
24 injury of other legal water users or adverse effects to fish and wildlife. Evaluation of water transfers that
25 rely upon SWP conveyance facilities or are approved by Reclamation must consider the economic effects
26 on the geographical areas of the water transferors.

27 4.2.1 *State Water Resources Control Board Water Transfer Process*

28 The SWRCB processes to review and issue determinations for water transfers are based upon the type of
29 water right held by the transferor, duration of the water transfer, and use of conveyance capacity in
30 facilities owned by a State, local, or regional governmental agency.

31 4.2.1.1 Overview of Water Rights Types Considered for Water Transfers

32 The SWRCB recognizes both riparian and appropriative water rights; however riparian water rights are
33 not within the jurisdiction of the SWRCB. As described in Chapter 3 of the Delta Plan, riparian water
34 rights are granted to landowners for properties that are adjacent to a natural water course and are entitled
35 to make reasonable use of water on or flowing past their properties (Council 2013b; DWR and SWRCB
36 2015a).

37 Appropriative water rights typically provide water on non-riparian lands that are not adjacent to water
38 bodies, or the water user needs to store water for later use (DWR and SWRCB 2015a). The appropriative
39 rights are allocated under a first in time and first in right priority system, and the priorities of
40 appropriative rights are based on the dates when the water rights are first used to support beneficial uses.
41 California law recognizes water conservation as a reasonable beneficial use so that water efficiency
42 improvements cannot be used as a reason to reduce appropriative rights held by a water user (Water Code
43 section 1011(a)) (DWR and SWRCB 2015a). Appropriative water rights also can be dedicated for
44 instream purposes under Water Code section 1707 without the water rights holders forfeiting the
45 protection of historic beneficial uses and/or historic stream flows.

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1 Under appropriative water rights established prior to 1914 (known as pre-1914 water rights), water rights
2 holders can change the purpose of use, place of use, and/or point of diversion without notifying the
3 SWRCB because these water rights are not within the jurisdiction of the SWRCB. However, the changes
4 may not cause injury to other legal users of water (Water Code section 1706).

5 Since 1914, appropriative water rights are administered by the SWRCB. Potential water users are required
6 to submit a water rights application to the SWRCB for review and issuance of a permit before water can
7 be diverted (DWR and SWRCB 2015a). The permit includes a quantity and timing of water diversion for
8 direct use or storage, authorized place of use, purpose of use, and any special conditions, such as
9 minimum remaining stream flows downstream of the diversion.

10 **4.2.1.2 State Water Resources Control Board Process for Water Transfers**

11 The California Water Code requires that water transfers may not cause injury to any legal user of water or
12 unreasonably affect fish and wildlife (DWR and SWRCB 2015b). In addition, transferring parties wishing
13 to use conveyance infrastructure owned by State, local, or regional agencies must generally show that
14 their transfers would not unreasonably affect the overall economy or the environment of the county from
15 which the water is transferred (Water Code section 1810).

16 *Water Transfers of Riparian Water Rights*

17 Riparian water rights cannot be transferred for use on non-riparian land. However, riparian water rights
18 can be transferred through agreements by the water right holders to not divert water in order to increase
19 instream flows and related downstream water supplies to other riparian water rights holders (Water Code
20 section 1707). Riparian water rights also can be included in petitions to the SWRCB for changes to
21 preserve or enhance wetlands habitat, fish and wildlife resources, or recreation in or on the water. The
22 petitions must specify the timing, location, and extent of the changes; and describe why the changes
23 would not unreasonably affect any legal user of water. These types of water transfers require SWRCB
24 approval (Council 2013b; DWR and SWRCB 2015a).

25 *Water Transfers of Pre-1914 Appropriative Water Rights*

26 Pre-1914 appropriative water rights holders can change the purpose of use, place of use, and/or point of
27 diversion without notifying the SWRCB. The water transfers may not injure other legal users of water
28 (Water Code section 1706) (DWR and SWRCB 2015a). Depending upon the water agencies involved in
29 the water transfers, the local agencies may be required to complete separate CEQA documentation to
30 inform their governing bodies' decisions about the water transfers. However, the results of the CEQA
31 documentation by the local agencies are not required to be submitted to the SWRCB.

32 *Water Transfers of Post-1914 Appropriative Water Rights*

33 Post-1914 appropriative water rights holders may change the purpose of use, place of use, and/or point of
34 diversion of the water right involving the transfer of water by filing a petition with the SWRCB and
35 notifying DFW (Water Code section 1726) (DWR and SWRCB 2015a). The water transfers may not
36 injure any legal user of the water (Water Code section 1725).

37 For long-term water transfers, the post-1914 water rights transferors must submit petitions to the SWRCB
38 and notify DFW of the potential change (DWR and SWRCB 2015a, 2015b). The petitions must be
39 accompanied by CEQA documents that analyze potential environmental changes related to
40 implementation of the water transfers. The SWRCB publishes public notifications of the petitions. The
41 petitioners and the protestants are to make good faith efforts to resolve the protests (generally within 180
42 days) (Water Code section 1703). If protests are filed, the SWRCB is required to hold hearings; however,
43 hearings are not required if no protests are filed for a petition or if the protests are resolved (Water Code
44 section 1704). The SWRCB must issue determination that a water transfer would not result in substantial

1 injury to any legal user of water and would not unreasonably affect fish, wildlife, or other instream
2 beneficial uses before approving the water transfer (Water Code section 1736).

3 For single-year water transfers, the post-1914 water rights transferors must submit petitions to the
4 SWRCB and notify DFW (DWR and SWRCB 2015a, 2015b). The petitions do not need to be
5 accompanied by CEQA documents (Water Code section 1729). For single-year water transfers, the
6 SWRCB is required to expedite the review process of the petitions by initiating the investigations and
7 notifying the public within 10 days of receipt of the petitions (Water Code section 1726). Public
8 comments are required within 30 days of publication of the notices. The SWRCB must issue
9 determinations, within 35 days of initiating the investigations or publication of the notices, whichever is
10 later if protests are not filed, whether or not the water transfers would injure any legal user of the water;
11 and would not unreasonably affect fish, wildlife, or other instream beneficial uses (Water Code section
12 1726). The Governor’s Executive Order issued on April 25, 2014 reduced the SWRCB public noticing
13 period specified in Water Code section 1726(f) for single-year water transfers from 30 days to 15 days,
14 which had the effect of reducing the time needed by the SWRCB to process single-year water transfers
15 from 45 to 30 days if no comments are received.

16 **4.2.2 Department of Water Resources Process for Water Transfers Under Water**
17 **Code Section 1810**

18 For water transfer under pre-1914 and post-1914 appropriative water rights, Water Code section 1810 *et*
19 *seq.* requires State, local, and regional agencies to allow use of their conveyance facilities for water
20 transfers if: (a) there is available unused capacity ; (b) fair compensation is provided by the water
21 transferors; (c) the water transfer would not injure any other legal user of water; (d) the water transfer
22 would not unreasonably affect fish, wildlife, or other instream beneficial uses; and (e) the water transfer
23 would not unreasonably affect the overall county-wide economy or environment of the county from
24 which the water is transferred (DWR and SWRCB 2015a). Water transfers also may not result in
25 diminution of beneficial uses or water quality in the conveyance facility. Under this provision of the
26 Water Code, all water transfers that use the SWP facilities must be approved by DWR. For water transfers
27 that also require SWRCB approval, the submittals to the SWRCB are also reviewed by DWR. DWR may
28 require additional analysis.

29 **4.2.3 Department of Water Resources and Bureau of Reclamation Processes for**
30 **Cross-Delta Water Transfers**

31 DWR and Reclamation generally coordinate the reviews of water transfer proposals that involve cross-
32 Delta water transfers using SWP and/or CVP facilities. DWR and Reclamation have a cooperative
33 responsibility under the Coordinated Operations Agreement to maintain specific water flows and/or water
34 quality in portions of the Delta and the Delta watershed in accordance with the SWRCB water rights
35 orders and decisions and the USFWS and NMFS biological opinions.

36 As described above, DWR must review all water transfer proposals involving SWP water conveyance
37 facilities in accordance with Water Code section 1810. DWR also must review all water transfers
38 involving SWP contracts.

39 Reclamation must approve all water transfers involving CVP water contracts and/or CVP water
40 conveyance facilities. In accordance with the Central Valley Project Improvement Act of 1992,
41 Reclamation will not approve water transfers that result in: (a) a significant adverse effect on the ability to
42 deliver CVP contractual obligations or fish and wildlife obligations due to limited conveyance and
43 pumping capacity; (b) a significant long-term adverse impact on groundwater conditions in the
44 transferor’s service area; (c) an unreasonable impact on water supply operations, or financial conditions
45 of the transferor’s entity or water users; and (d) a significant reduction in the quantity or decrease the
46 quality of water supplies used for fish and wildlife purposes unless the Secretary of the Interior

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1 determines that the adverse effect would be more than offset by benefits of the transfer (Public Law 102-
2 575, Title 34, section 3405(a)). Only water provided through the reduction of consumptive use or reversal
3 of loss of runoff that has historically been irretrievably lost can be considered for water transfer in the
4 Reclamation approval process. Reclamation must complete NEPA and CEQA documents and consult
5 with the USFWS and NMFS under the ESA Section 10 prior to approval of any water transfers. The
6 USFWS and NMFS must determine if the water transfers are consistent with the existing biological
7 opinions, and the proposed water transfers would not be likely to jeopardize the continued existence of
8 endangered or threatened species or result in the destruction or adverse modification of their critical
9 habitats [16 U.S. Code section 1536 (a)(2)]. Reclamation also requires water transfer proponents to
10 submit CEQA documentation if required by the State or local agencies involved in the water transfer.

11 DWR and Reclamation are required to comply with water quality and flow criteria established by the
12 SWRCB and terms of their agreements with agencies in the Delta. The water quality and flow criteria
13 limit the total amount of water conveyed across the Delta by DWR and Reclamation during some periods
14 of the year; and require DWR and Reclamation to release more water from their reservoirs in addition to
15 the amount of water to be conveyed across the Delta. This additional water, also known as carriage water,
16 is used to maintain freshwater conditions in the interior Delta. As more water is exported by DWR and
17 Reclamation from the Delta intakes, more saline water can move from San Francisco Bay towards the
18 interior Delta. Cross-Delta water transfers increase the need for additional carriage water to meet the
19 water quality and flow criteria. For water transfers, carriage water is generally defined as the additional
20 amount of water that must remain in the Sacramento or San Joaquin River for Delta outflow to
21 compensate for the additional export made on behalf of a transfer in order to assure compliance with the
22 water quality requirements.

23 DWR and Reclamation are also required to comply with the 2008 USFWS and 2009 NMFS biological
24 opinions criteria for all water conveyed through the SWP and CVP Delta facilities, including water
25 transfers. The biological opinions address effects under ESA related to conveyance of cross-Delta water
26 transfers from July through September and limit the total amount of water transferred through SWP and
27 CVP facilities as shown below (Reclamation 2008; USFWS 2008; NMFS 2009).

Water Year Classification	Maximum Water Transfer Amount through SWP and CVP Delta Facilities
Critical Year	Up to 600,000 acre-feet/year
Dry Year following a Critical Year	Up to 600,000 acre-feet/year
Dry Year following a Dry Year	Up to 600,000 acre-feet/year
All Other Water Years	Up to 360,000 acre-feet/year

28

29 If a water transfer proposal included conveyance during October through June or resulted in transferred
30 water volumes greater than addressed in the 2008 USFWS and 2009 NMFS biological opinions, DWR
31 and/or Reclamation would be required to obtain separate approvals from USFWS and NMFS under ESA
32 Sections 7 or 10.

33 **4.2.3.1 Department of Water Resources and Bureau of Reclamation Water Transfer White Paper**
34 **Requirements**

35 Each year, DWR and Reclamation update the *Water Transfer White Paper*, which provides information to
36 guide the development of proposals to transfer water through the SWP and/or CVP facilities, including
37 methods to calculate new water (ETAW values for different crops) and the minimum streamflow
38 depletion factor for groundwater substitution transfers. The current version of the *Water Transfer White*

1 *Paper*, published in December 2015, requests that the following information be included in water transfer
2 proposals (DWR and Reclamation 2015).

3 • **Water Transfer Proposals Involving Crop Idling should include:**

- 4 ○ Identification of the surface water rights and historic surface water
5 diversions.
- 6 ○ Identification of participating owners or growers.
- 7 ○ CEQA and NEPA documents, as required by DWR and/or Reclamation (as
8 described above).
- 9 ○ Location and historic crop patterns of lands to be idled, including crop
10 acreage as compared to total farmable acreage, irrigated and non-irrigated
11 crop acreage. In 2015, the following methods are not allowed for projects
12 that require DWR and Reclamation approval:
 - 13 ■ Crop idling programs that would result in idling of more than 20
14 percent of the affected crop acreage in the county unless the water
15 transferor holds a public hearing in accordance with Water Code
16 section 1745.05(b).
 - 17 ■ Water transfers based upon rice straw decomposition.
 - 18 ■ Water transfers based on crop idling of pasture, mixed or
19 miscellaneous grasses, alfalfa outside the Sacramento Valley floor,
20 orchards, or vineyards.
- 21 ○ Location of historic acreage idled or fallowed each year, and reasons for not
22 cultivating. Lands idled for other purposes, such as normal crop rotation, are
23 not eligible for water transfer programs.
- 24 ○ Identification of areas adjacent to wildlife refuges or managed wildlife
25 habitat.
- 26 ○ Description of mitigation measures if idled crop acreage provides habitat for
27 Giant Garter Snake and other terrestrial species. In order for DWR and/or
28 Reclamation to make a determination that the proposed transfer does not
29 unreasonably impact these resources, the proponent for a water transfer from
30 rice land idling must incorporate conservation measures that minimize the
31 impacts on the giant garter snake. In the 2015 *Water Transfer White Paper*, it
32 was DWR's and Reclamation's judgment that the conservation measures
33 described in the 2014 *Revised Environmental Assessment/Initial Study, 2014*
34 *San Luis & Delta-Mendota Water Authority Water Transfers* document
35 (Reclamation and SLDMWA 2014) represent the most current and best
36 scientific information on protective measures for the giant garter snake.
37 Accordingly, DWR and Reclamation encourage transfer proponents to
38 incorporate in their transfer proposals those conservation measures from
39 the most recent biological opinion relevant to crop idling. The document
40 cited in the *Water Transfer White Paper* (Reclamation and SLDMWA 2014)
41 includes mitigation measures that address protections for aquatic species
42 movement corridors (such as Western Pond Turtle and Giant Garter Snake),
43 including providing minimum water depths in major irrigation and drainage
44 canals; identification of habitat and habitat protection measures such as

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- 1 minimum water depths in idled rice fields; education of maintenance
- 2 personnel in methods to protect listed species; and minimizing idling acreage
- 3 near known wintering areas that support high concentrations of waterfowl
- 4 and shorebirds.
- 5 ■
- 6 ○ Maintenance and Monitoring Proposal for idled acreage, including plans for
- 7 remnant vegetation, methods to prevent seepage, vegetation controls, and
- 8 conservation easements or similar requirements.
- 9 • **Water Transfer Proposals Involving Groundwater Substitution should include:**
- 10 ○ Identification of surface water sources and associated water rights that would
- 11 be replaced by groundwater substitution.
- 12 ■ In 2015, DWR and Reclamation will not approve water transfers
- 13 based upon use of groundwater substitution to replace surface water
- 14 used for rice straw decomposition.
- 15 ○ CEQA and NEPA documents, as required by DWR and/or Reclamation (as
- 16 described above).
- 17 ○ Location and construction details of wells involved in the program, and
- 18 documentation of operating flow meters on each well, including schedule and
- 19 volume of water to be pumped, basis for monitoring program, and historic
- 20 operations.
- 21 ○ Technical analysis to support using a streamflow depletion factor different
- 22 than suggested by DWR and Reclamation in the current *Water Transfer*
- 23 *White Paper*.
- 24 ○ Documentation of compliance with local and regional groundwater
- 25 management plans and ordinances.
- 26 ○ Verification of the use of electric-powered groundwater pumps for each well,
- 27 or verification of compliance with California Air Resources Board or local
- 28 Air Pollution Control District regulations for diesel or natural gas-powered
- 29 groundwater pumps.
- 30 ○ Monitoring Program including use of instantaneous flow meter readings,
- 31 groundwater elevation measurements, groundwater quality monitoring at
- 32 least monthly, subsidence monitoring method, and data evaluation and
- 33 reporting methods.
- 34 ○ Subsidence monitoring plan which would depend upon the susceptibility of
- 35 the area to land subsidence. Areas with documented land subsidence may
- 36 require more extensive monitoring than areas with no documented land
- 37 subsidence. If subsidence monitoring is required, DWR and/or Reclamation
- 38 would work with the transfer proponent to develop a mutually agreed upon
- 39 subsidence monitoring program similar to Mitigation Measure GW-1
- 40 contained in the Long-Term Water Transfer EIS/EIR (Reclamation and
- 41 SLDMWA 2015). The monitoring program could include periodic
- 42 determination of land surface elevation at strategic locations throughout the

1 transfer area up to and including installation and monitoring of
2 extensometers and/or continuous GPS stations.

- 3 ○ Mitigation Plan that includes procedures to report information to DWR
4 and/or Reclamation, investigative procedures for claims and adverse data,
5 mitigation options, and assurance of adequate financial resources for
6 anticipated mitigation needs. Mitigation measures could include reductions in
7 groundwater pumping until natural recharge occurs, extension of
8 groundwater wells, or reimbursement for additional groundwater pumping
9 costs.

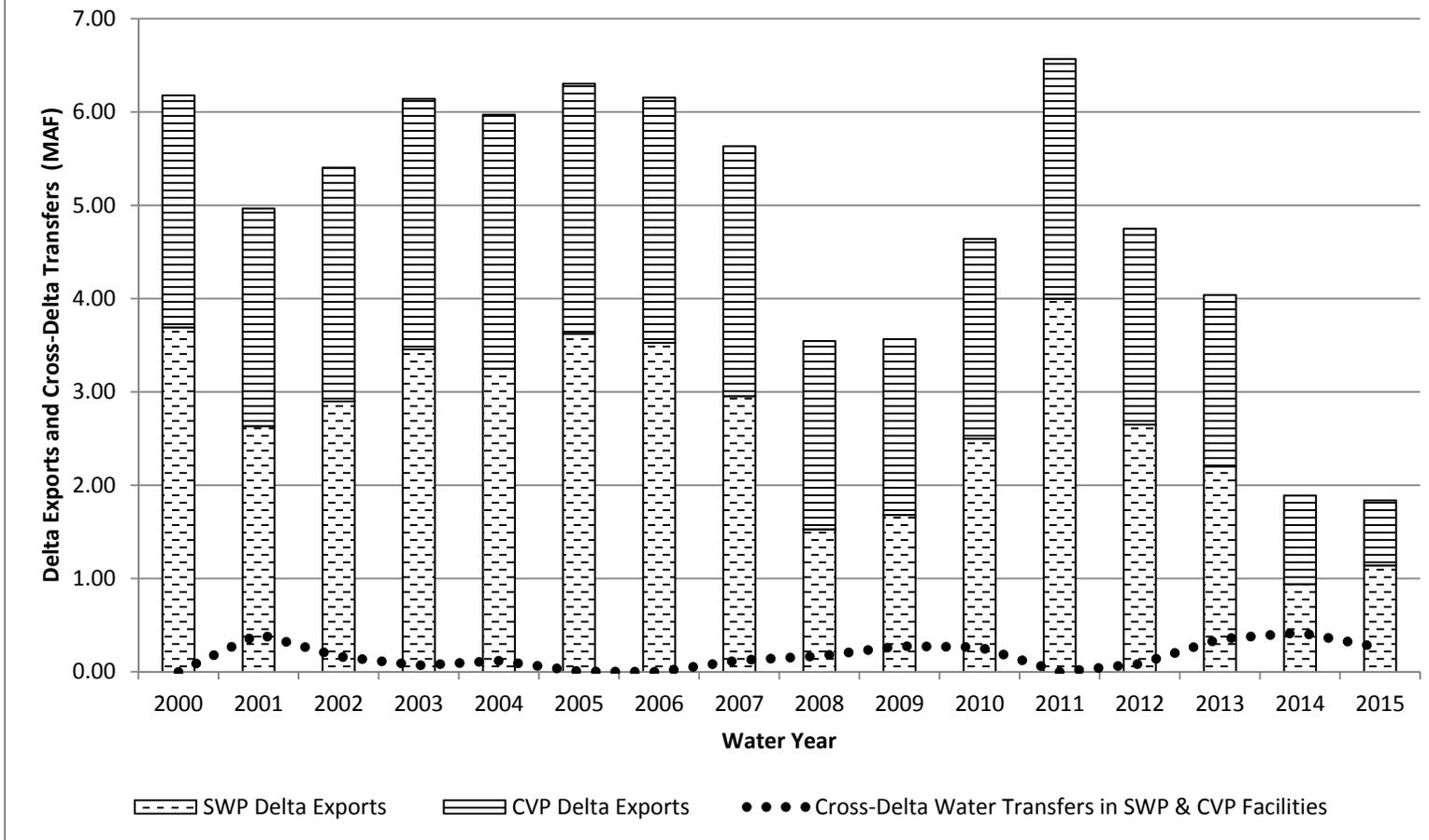
10 • **Water Transfer Proposals Involving Reservoir Re-operation should include:**

- 11 ○ Identification of surface water sources and associated water rights involved
12 in the water transfer, and proposed schedule and volume of transferred water
13 to be released.
- 14 ○ CEQA and NEPA documents, as required by DWR and/or Reclamation (as
15 described above).
- 16 ○ At least 5 years of reservoir operating data related to storage and releases,
17 allowable conservation storage volume, Flood Control Diagram for the
18 reservoir, if applicable, and Reservoir Area-Capacity curve, if available.
- 19 ○ Identification of instream flow requirements for all downstream river
20 segments, and other regulatory or operational obligations affecting the
21 reservoir operations.
- 22 ○ Forecasted reservoir operations for the year with the water transfer, including
23 projected inflows and end-of-season target storage.
- 24 ○ Historic demands and forecasted water supply demands supplied by the
25 affected reservoir for the year with the water transfer.
- 26 ○ Location, type, and ownership of stream flow measurement devices.
- 27 ○ Refill criteria to avoid injury to other legal water users, including the SWP
28 and CVP. Typically, reservoirs cannot be refilled unless downstream
29 reservoirs are full or surface water is required to be released in accordance
30 with flood control operations, or the Delta is in excess conditions (as defined
31 in the Coordinated Operations Agreement between the State and Federal
32 government to occur when DWR and Reclamation agree that flows released
33 from reservoirs located in the Sacramento Valley upstream of the Delta plus
34 unregulated flows in the Sacramento Valley rivers exceed the Sacramento
35 Valley in-basin water uses plus SWP and CVP exports).

36 **4.3 Recent Cross-Delta Water Transfers**

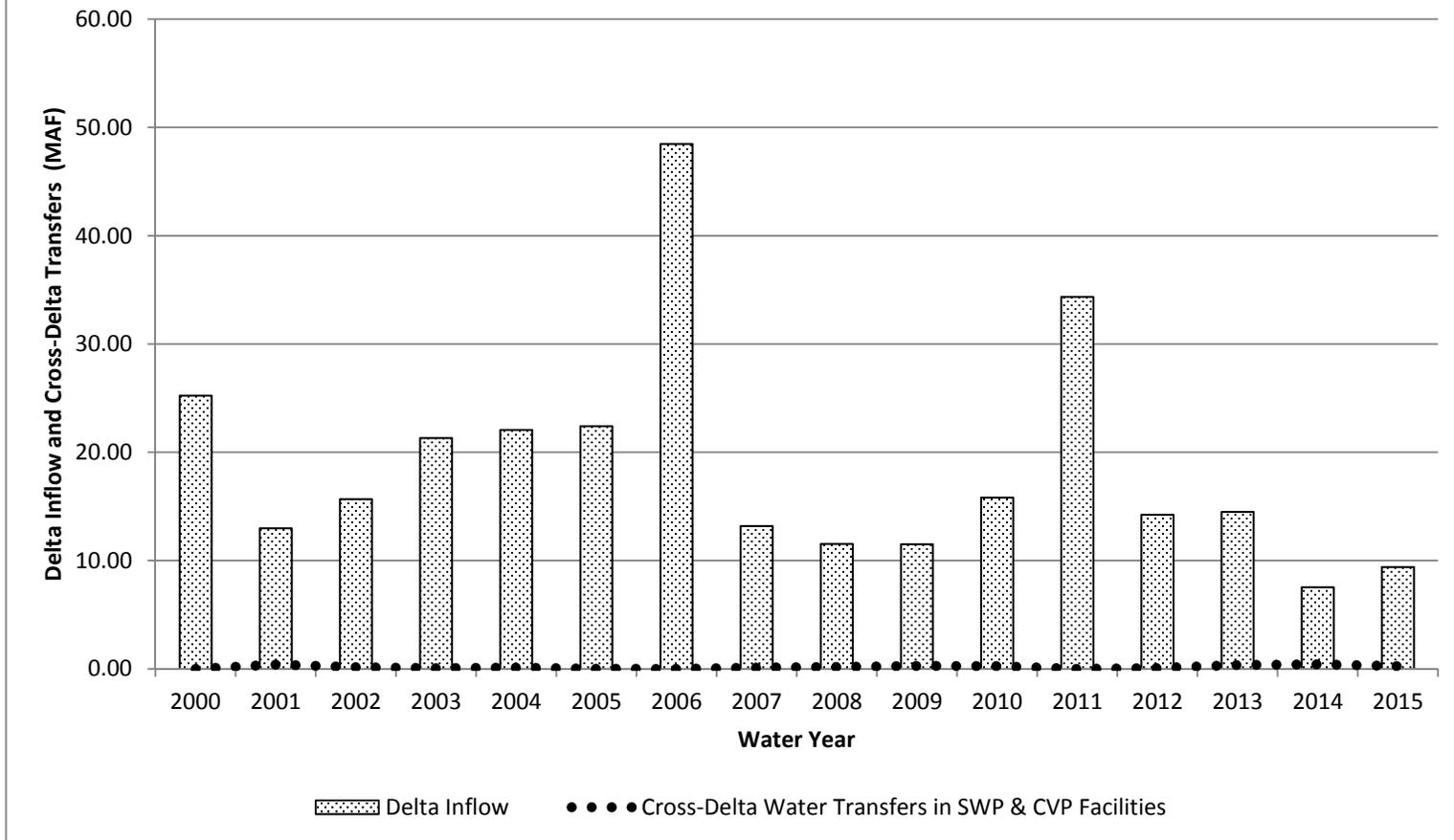
37 Intra-basin water transfers have occurred within the Sacramento and San Joaquin valleys for many years.
38 Between 2001 and 2015, cross-Delta water transfers that use SWP and CVP facilities occurred in every
39 year except 2006 and 2011 which were wet water year types (DWR and SWRCB 2015a). In years with
40 cross-Delta water transfers, the volume of transferred water ranged from approximately 6,000 to 415,000
41 acre-feet. As shown in Figures 1 and 2, cross-Delta water transfers using SWP and CVP facilities in this
42 time period were minimal as compared to total Delta exports and Delta inflows (e.g., 0 to 7 percent of the
43 total Delta exports (Figure 1) and 0 to 6 percent of total Delta inflows (Figure 2)).

Figure 1
SWP and CVP Delta Exports and
Cross-Delta Water Transfers Using SWP and CVP Facilities
2000 - 2015



Source: DWR 2013, 2016

Figure 2
Delta Inflow and
Cross-Delta Water Transfers Using SWP and CVP Facilities
2000 - 2015



Source: DWR 2013, 2016

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1 Specific sources of the water transfers have not been compiled in a uniform manner to determine methods
2 used for all water transfers. However, DWR reported that use of groundwater substitution in the
3 Sacramento Valley to provide transferred water between 2001 and 2013 ranged from 2 to 5 percent of the
4 total groundwater pumping (DWR 2013, 2015). As indicated in these DWR reports, groundwater
5 substitution was only used in 6 years between 2001 and 2013.

6

Section 5 Environmental Checklist for Addendum to the Delta Plan Programmatic EIR

The purpose of this checklist is to evaluate the Proposed Project (see Section 2, *Project Description*, of this Addendum) in order to determine, for each environmental resource area, whether the proposed amendments to 23 CCR section 5001(dd)(3) of the Delta Plan Regulations and WR R15, changes in circumstances, or new information of substantial importance would result in new or substantially more severe environmental impacts than described within the Delta Plan PEIR, and would require major revisions to the Delta Plan PEIR (CEQA Guidelines Section 15162). A “no” response included in the checklist means that there are no substantial changes in the conditions or the status of the impact as described in the Delta Plan PEIR.

The potential changes in environmental impacts due to the Proposed Project are compared to existing conditions which, pursuant to 23 CCR section 5001(dd)(3), are that the Council is not currently requiring certifications of consistency with the Delta Plan for single-year water transfers. The resource categories are organized in the same manner as in the Delta Plan PEIR, and the evaluation is based upon the guidance provided in Public Resources Code section 21166 and CEQA Guidelines 15162 and 15163 for consideration of the need to prepare a subsequent or supplemental EIR. As stated in the Public Resources Code and the CEQA Guidelines, following certification of an EIR, no subsequent or supplemental EIR shall be prepared unless the lead agency determines, based upon substantial evidence in the whole record, that none of the following would occur.

- *Substantial changes are proposed in the project which will require major revisions of the previous EIR ... due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
- *Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR ... due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*
- *New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete ... , shows any of the following:*
 - *The project will have one or more significant effects not discussed in the previous EIR;*
 - *Significant effects previously examined will be substantially more severe than shown in the previous EIR;*
 - *Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or*
 - *Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.*

(CEQA Guidelines 15162(a))

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1 Therefore, the environmental checklist in this Addendum addresses the foregoing questions for the
2 Proposed Project compared to the conclusions in the Delta Plan PEIR.

3 The Council has jurisdiction only over actions that occur in whole or in part in the Delta, as defined in the
4 Delta Reform Act. Accordingly, the only single-year water transfers included in the description of the
5 project in the Delta Plan PEIR and this Addendum are water transfers that would occur in whole or in part
6 in the Delta or Suisun Marsh. The water transfers addressed in this Addendum only involve water sellers
7 or buyers that are located in the Delta or Suisun Marsh, or users that rely upon Delta waters and water
8 conveyance facilities in the Delta to transport the transferred water between water sellers and water
9 purchasers. It is recognized that water transfers that occur in whole upstream of the Delta may affect the
10 Delta resources; however, those activities would not covered actions as defined in Water Code section
11 85057.5(a) because they do not occur in whole or in part in the Delta.

12 5.1 Consideration of Results of Similar Programmatic 13 Analyses of Water Transfers

14 Like the Delta Plan PEIR, this analysis is based in part on CEQA and NEPA analyses of recent water
15 transfers and considers relevant conclusions reached in those CEQA and NEPA documents in forming the
16 conclusions below. The following documents were reviewed in the preparation of this environmental
17 document.

- 18 • *Environmental Assessment/Initial Study, 2014 San Luis & Delta-Mendota Water Authority*
19 *Water Transfers*, (Reclamation and SLDMWA 2014).
 - 20 ○ The EA/IS analyzes single-year water transfers of up to 175,226 acre-feet
21 from portions of the Sacramento and San Joaquin valleys to the San
22 Francisco Bay Area and San Joaquin Valley in 2014. A combination of crop
23 idling, crop shifting, and groundwater substitution methods were assumed to
24 be available to provide the transferred water.
- 25 • *Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report,*
26 *Final* (Reclamation and SLDMWA 2015).
 - 27 ○ The Long-Term Water Transfer EIS/EIR analyzes annual water transfers of
28 up to 511,094 acre-feet/year from the Sacramento Valley to the San
29 Francisco Bay Area and San Joaquin Valley between 2015 through 2024. A
30 combination of crop idling, crop shifting, groundwater substitution, reservoir
31 re-operation, and water conservation methods were assumed to be available
32 to provide the transferred water.

33 The Long-Term Water Transfer EIS/EIR assumed a range of methods to provide the transferred water
34 each year. The analysis assumed approximately 35 percent of the transferred water would be provided by
35 crop idling or crop shifting, more than 60 percent would be provided by groundwater substitution, and
36 less than 5 percent would be provided by reservoir re-operation and water conservation. These CEQA and
37 NEPA documents concluded that all changes would be beneficial or result in a less than significant
38 impact. A potentially significant impact to water supplies, groundwater, air quality and land use in areas
39 that would provide the transferred water would be less than significant with implementation of mitigation
40 measures. As discussed in Section 4.2.3.1, *Department of Water Resources and Bureau of Reclamation*
41 *Water Transfer White Paper Requirements*, in this Addendum, water transfers that would require DWR
42 and Reclamation approval would consider mitigation measures similar to those included in the Long-
43 Term Water Transfer EIS/EIR (DWR and Reclamation 2015).

1 **5.2 Water Resources**

2 The results of the water resources impact analysis were presented in Chapter 3 of the Delta Plan PEIR
3 (Council 2013a).

4

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 3-1: Violate any water quality standards or waste discharge requirements or substantially degrade water quality?	No	No	No
Impact 3-2: Substantially deplete groundwater supplies or interfere substantially with groundwater recharge?	No	No	No
Impact 3-3: Substantially change water supply availability to water users that use Delta water?	No	No	No

5

6 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
7 from the covered action process; therefore, no change from existing conditions would occur. The Delta
8 Plan determined that single-year cross-Delta and/or in-Delta water transfers occurring before December
9 31, 2016 would not have a significant adverse impact on the coequal goals. As a result of this
10 determination, such single-year water transfers are not covered actions within the meaning of Water Code
11 section 85057.5(a)(4) and are not subject to the covered action process.

12 As described in Section 3, *Project History*, of this Addendum, information related to single-year water
13 transfers was compiled and analyzed by DWR and SWRCB, and reported at the September 24, 2015
14 Council meeting. The information indicated that single-year water transfers primarily occurred in drier
15 years (e.g., 2014 and 2015) because the demand was greater and cross-Delta conveyance capacity for
16 such water transfers was available. At the same Council meeting, information was presented by others
17 that summarized reductions in observed stream flow and concurrent increased groundwater pumping in
18 the Sacramento Valley. This and other new information compiled by DWR, SWRCB, and Reclamation
19 was considered during preparation of this Addendum.

20 **Impact 3-1:** In accordance with CEQA, the Council considered information concerning whether cross-
21 Delta and/or in-Delta water transfers could cause changes of stream flow patterns upstream of the Delta
22 and in the Delta that could cause significant adverse changes in water temperatures or constituent
23 concentrations (e.g., salinity). Based upon information in the Delta Plan PEIR, information presented at
24 Council meetings in 2015, and results from recent water transfer CEQA and NEPA documents
25 (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar*
26 *Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not
27 result in new or substantially more severe significant adverse impacts on water quality.

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1 As a result of reservoir re-operation methods to provide transferred water, surface water elevations in the
2 reservoirs would become higher in some months if the transferred water were being stored for release
3 later in the year or during the next water year. However, the reservoirs would continue to be operated
4 within the surface water elevation criteria established for flood management and drought conditions.
5 Reservoir water temperatures would continue to occur within the historic ranges of water temperatures.
6 Stream flow releases from the reservoirs also would occur within historic operational ranges. Therefore,
7 single-year water transfers would not substantially change water quality at reservoirs involved in reservoir
8 re-operation methods for water transfers or in the streams located downstream of the reservoirs.

9 Single-year water transfers that occur within the Delta would not result in new substantially more severe
10 significant adverse impacts on water quality in the Delta because most of the water transfers would be
11 required to comply with existing water quality criteria or not adversely affect existing beneficial uses
12 through water quality degradation. As described in Section 4, *Overview of Water Transfers*, of this
13 Addendum, water transfers that use SWP and/or CVP conveyance facilities would be implemented to
14 comply with water quality criteria established by the SWRCB, 2008 USFWS biological opinion, and
15 2009 NMFS biological opinion. Single-year water transfers approved only by the SWRCB would be
16 implemented in a manner that does not result in injury to other legal water users, including protection of
17 water quality for adopted beneficial uses. The number of single-year water transfers that occur within the
18 Delta that do not need to analyze water quality conditions because they do not require approvals by the
19 SWRCB, DWR, or Reclamation would be minimal because most water transfers that occur within the
20 Delta require the use of SWP and/or CVP conveyance facilities. The single-year cross-Delta water
21 transfers that use SWP and/or CVP facilities would not result in new or substantially more severe
22 significant adverse impacts on water quality in the Delta because the total volume of transferred water
23 across the Delta for all types of water transfers is anticipated to continue to be a minor amount of the
24 water conveyed across the Delta for the SWP and CVP operations, as discussed in Section 4.3, *Recent*
25 *Cross-Delta Water Transfers*, in this Addendum. Therefore, effects due to single-year water transfers on
26 Delta water quality would be minimal, and continued exemption of single-year water transfers from the
27 covered action process would not be a change from existing conditions.

28 **Impact 3-2:** In accordance with CEQA, the Council considered information concerning whether cross-
29 Delta and/or in-Delta water transfers could cause significant adverse changes in groundwater conditions
30 or interfere substantially with groundwater recharge. Based upon information in the Delta Plan PEIR,
31 information presented to the Council, and results from recent water transfer CEQA and NEPA documents
32 (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar*
33 *Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not
34 result in new or substantially more severe significant adverse impacts on groundwater conditions.

35 As discussed in Section 4.3, *Recent Cross-Delta Water Transfers*, in this Addendum, groundwater
36 substitution has been used for 6 of the 13 years between 2001 and 2013. In those 6 years, groundwater
37 substitution represented 5 percent or less of the total amount of groundwater pumped in the Sacramento
38 Valley (DWR 2013, 2015). As discussed in recent water transfer CEQA and NEPA documents (see
39 Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*, of this
40 Addendum), changes in local or basin-wide groundwater conditions due to water transfers were
41 determined to be less than significant with implementation of mitigation measures currently included in
42 approval criteria used by DWR and Reclamation (Reclamation and SLDMWA 2014, 2015). As described
43 in Section 4, *Overview of Water Transfers*, of this Addendum, detailed analyses of potential groundwater
44 conditions and implementation of groundwater mitigation and monitoring plans if groundwater
45 substitution would be used for water transfers must be completed for water transfers that use SWP and/or
46 CVP conveyance facilities. Single-year water transfers approved only by the SWRCB would be
47 implemented in a manner that does not result in injury to other legal water users, including changes to
48 groundwater conditions, and also would require analysis of groundwater conditions if groundwater
49 substitution methods would be used. The number of single-year water transfers that occur within the Delta

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1 that do not need to analyze groundwater conditions because they would not require approvals by the
2 SWRCB, DWR, or Reclamation would be minimal because most water transfers that occur within the
3 Delta would require use of SWP and CVP facilities. Therefore, effects due to single-year water transfers
4 on groundwater conditions in the Sacramento Valley or the Delta would be minimal and continued
5 exemption of single-year water transfers from the covered action process would not be a change from
6 existing conditions.

7 As discussed in recent water transfer CEQA and NEPA documents (see Section 5.1, *Consideration of*
8 *Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum), single-year water
9 transfers frequently cause beneficial changes in groundwater conditions in areas that use transferred
10 water. The transferred water is frequently used to reduce groundwater pumping or to recharge
11 groundwater aquifers.

12 **Impact 3-3:** In accordance with CEQA, the Council considered information concerning whether cross-
13 Delta and/or in-Delta water transfers could cause significant adverse changes in water supply availability.
14 Based upon information in the Delta Plan PEIR, information presented to the Council, and results from
15 recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015) as
16 described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*,
17 of this Addendum, single-year water transfers would not result in new or substantially more severe
18 significant adverse impacts on surface water and groundwater supply availability.

19 The water transfers that occur within the Delta would not result in new or substantially more severe
20 significant adverse impacts on local Delta water supplies or SWP and CVP water supplies because most
21 of these transfers would require approvals under permitting processes that would not result in substantial
22 changes in water supplies for other users. The water transfers that use SWP and/or CVP conveyance
23 facilities may not adversely affect local Delta water supplies or SWP and CVP water supplies, as
24 discussed in Section 4, *Overview of Water Transfers*, of this Addendum. In addition, the total volume of
25 transferred water for all types of water transfers that use SWP and/or CVP facilities is anticipated to
26 continue to be a minor amount of the water conveyed across the Delta for the SWP and CVP operations,
27 as discussed in Section 4.3, *Recent Cross-Delta Water Transfers*, in this Addendum. Single-year water
28 transfers approved only by the SWRCB would be implemented in a manner that does not result in injury
29 to other legal water users. The number of single-year water transfers that occur within the Delta that do
30 not analyze water supply conditions because they would not require approvals by the SWRCB, DWR, or
31 Reclamation would be minimal because most water transfers that occur within the Delta would require
32 use of SWP and CVP facilities.

33 As discussed in recent water transfer CEQA and NEPA documents (see Section 5.1, *Consideration of*
34 *Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum), single-year water
35 transfers frequently cause beneficial changes in water supply conditions in areas that use transferred
36 water. The transferred water is frequently used to reduce groundwater pumping in areas with groundwater
37 overdraft or to recharge groundwater aquifers.

38 Therefore, adverse effects due to single-year water transfers on water supplies would not occur or would
39 be minimal, and continued exemption of single-year water transfers from the covered action process
40 would not be a change from existing conditions.

41 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
42 substantially more severe significant adverse impacts on water resources compared to the conclusions in
43 the Delta Plan PEIR, because there would be no change in existing conditions, and single-year water
44 transfers would continue to be exempt from the definition of a covered action.

1 **5.3 Biological Resources**

2 The results of the biological resources impact analysis were presented in Chapter 4 of the Delta Plan
3 PEIR (Council 2013a).

4

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 4-1: Result in substantial adverse effects on sensitive natural communities, including wetlands and riparian habitat?	No	No	No
Impact 4-2: Result in substantial adverse effects on special status species?	No	No	No
Impact 4-3: Result in substantial adverse effects on fish and wildlife species habitat?	No	No	No
Impact 4-4: Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors?	No	No	No
Impact 4-5: Conflict with any local policies or ordinances protecting biological resources or the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State Habitat Protection Plan	No	No	No

5

6 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
7 from the covered action process; therefore, no change from existing conditions would occur. The Delta
8 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
9 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
10 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
11 subject to the covered action process.

12 **Impacts 4-1 through 4-5:** In accordance with CEQA, the Council considered information concerning
13 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in biological
14 resources upstream of the Delta and in the Delta or in areas that use transferred water. Based upon

1 information in the Delta Plan PEIR, information presented to the Council, and results from recent water
2 transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015) as described in Section
3 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum,
4 single-year water transfers would not result in new or substantially more severe significant adverse
5 impacts on biological resources, including habitat associated with changes in cultivated lands used for
6 crop idling methods, habitat adjacent to areas used for groundwater substitution methods; habitat
7 associated with reservoir operations, and in-Delta habitat.

8 Single-year water transfers that occur within the Delta would not result in new or substantially more
9 severe significant adverse impacts on biological resources because most of the water transfers would be
10 required to avoid substantial adverse effects on biological resources. As described in Section 4, *Overview*
11 *of Water Transfers*, of this Addendum, water transfers that use SWP and/or CVP conveyance facilities
12 must provide a detailed analysis of potential changes in cropping patterns and groundwater conditions.
13 For water transfers that include crop idling (including acreage reduction in rice fields, and areas adjacent
14 to wildlife refuges or managed wildlife habitat) or groundwater substitution, the water transfer proposals
15 identify the acreage and biological resources associated with lands that provide the transferred water.
16 Many water transfers include mitigation measures if idled crop acreage or lands associated with
17 groundwater substitution provide habitat or are located adjacent to habitat for Giant Garter Snake and
18 other terrestrial species as determined by site-specific environmental analyses for the water transfer.
19 Single-year water transfers approved only by the SWRCB would be implemented to not unreasonably
20 affect fish, wildlife, or other instream beneficial uses. The number of single-year water transfers that
21 occur within the Delta that do not need to analyze biological resources because they do not require
22 approvals by the SWRCB, DWR, or Reclamation would be minimal because most water transfers that
23 occur within the Delta require the use of SWP and/or CVP conveyance facilities.

24 Single-year water transfers that use reservoir re-operation methods also would not result in new or
25 substantially more severe significant adverse impacts on biological resources. Surface water elevations in
26 the reservoirs would become higher in some months if the transferred water is being stored for release
27 later in the year or during the next water year. However, the reservoirs would continue to be operated
28 within the surface water elevation criteria established for flood management and drought conditions.
29 Reservoir water temperatures would continue to occur within historic ranges of water temperatures and
30 support biological resources in the reservoirs and in the habitat downstream of the reservoirs. Therefore,
31 single-year water transfers would not substantially change biological resources at reservoirs involved in
32 reservoir re-operation methods for water transfers or in the streams located downstream of these
33 reservoirs.

34 Single-year water transfers that occur within the Delta would not result in new or substantially more
35 severe significant adverse impacts on Delta biological resources because most of the water transfers
36 would be required to comply with existing criteria established by the 2008 USFWS and 2009 NMFS
37 biological opinions for long-term coordinated operation of the CVP and SWP or would be required to not
38 unreasonably affect fish, wildlife, or other instream beneficial uses. As described in Section 4, *Overview*
39 *of Water Transfers*, of this Addendum, water transfers that use of SWP and/or CVP conveyance facilities
40 would be implemented to not result in non-compliance of biological criteria established by the USFWS
41 and/or NMFS biological opinions or SWRCB water quality criteria to protect beneficial uses. Single-year
42 water transfers approved only by the SWRCB would be implemented to not unreasonably affect fish,
43 wildlife, or other instream beneficial uses. The number of single-year water transfers that occur within the
44 Delta and that do not need to analyze biological resources because they do not require approvals by the
45 SWRCB, DWR, or Reclamation would be minimal because most water transfers that occur within the
46 Delta require the use of SWP and/or CVP conveyance facilities. The single-year cross-Delta water
47 transfers that use SWP and/or CVP facilities would not result in new or substantially more severe
48 significant adverse impacts on biological resources in the Delta because the total volume of transferred
49 water across the Delta for all types of water transfers is anticipated to continue to represent a minor

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1 amount of the water conveyed across the Delta for the SWP and CVP operations, as discussed in Section
 2 4.3, *Recent Cross-Delta Water Transfers*, in this Addendum. Therefore, effects due to single-year water
 3 transfers on Delta water quality and Delta habitat would be minimal, and continued exemption of single-
 4 year water transfers from the covered action process would not be a change from existing conditions.

5 Single-year water transfers that occur within the Delta would not result in new or substantially more
 6 severe significant adverse impacts on biological resources in the areas that provide or use the transferred
 7 water due to construction activities because construction of infrastructure would not be anticipated to
 8 occur in connection with single-year water transfers. As described in Section 4.1.1, *Construction*
 9 *Activities and Water Transfers*, in this Addendum, single-year water transfers would not result in
 10 construction of new facilities in areas that provide the transferred water because there is not adequate time
 11 to construct the facilities following approval of the water transfer before actions must be implemented to
 12 provide the transferred water. Single-year water transfers also would not result in construction of new
 13 facilities or community growth in areas that use the transferred water because of the uncertainty of water
 14 availability from year to year. Information presented to the Council by DWR and SWRCB at the
 15 September 24, 2015 Council meeting indicated that the volume of water involved in cross-Delta water
 16 transfers and the capacity to convey the transferred water in the SWP and CVP facilities varies annually.
 17 As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, it would
 18 be difficult for purchasers of the transferred water to make long-term development decisions based on this
 19 intermittent and variable water supply. Therefore, there would be no effects on biological resources due to
 20 construction activities associated with single-year water transfers in the areas that provide or use the
 21 transferred water and continued exemption of single-year water transfers from the covered action process
 22 would not be a change from existing conditions.

23 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 24 substantially more severe significant adverse impacts on biological resources compared to the conclusions
 25 in the Delta Plan PEIR, because there would be no change in existing conditions, and single-year water
 26 transfers would continue to be exempt from the definition of a covered action.

27 **5.4 Delta Flood Risk**

28 The results of the Delta flood risk impact analysis were presented in Chapter 5 of the Delta Plan PEIR
 29 (Council 2013a).

30

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 5-1: Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	No	No	No

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 5-2: Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	No	No	No
Impact 5-3: Place housing Within a 100-year Flood Hazard Area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other Flood Hazard Delineation Map?	No	No	No
Impact 5-4: Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	No	No	No
Impact 5-5: Place within a 100-year flood hazard area structures which would impede or redirect flood flows, or inundation by seiche, tsunami, or mudflow?	No	No	No

1

2 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
3 from the covered action process; therefore, no change from existing conditions would occur. The Delta
4 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
5 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
6 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
7 subject to the covered action process.

8 **Impacts 5-1 through 5-5:** In accordance with CEQA, the Council considered information concerning
9 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in flood risks.
10 Based upon information in the Delta Plan PEIR, information presented to the Council, and results from
11 recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015) as
12 described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*,
13 of this Addendum, single-year water transfers would not result in new or substantially more severe
14 significant adverse impacts in related to flood risks, including changes in land use that would result in
15 construction of facilities that would change drainage patterns or runoff; expose structures and/or people to
16 flood risks or inundation by seiche, tsunami, or mudflow; or increase flood risk due to reservoir re-
17 operation.

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1 Single-year water transfers would not result in new or substantially more severe significant adverse
 2 impacts related to flood risk because the water transfers would not result in changes in land uses. Water
 3 conservation, crop shifting, groundwater substitution, and reservoir re-operation to make the transferred
 4 water available would not change land uses because the land would continue to be used for agriculture
 5 and cultivation would continue in the same manner as without water transfers. Although crop idling
 6 would change the annual use of land during the water transfer period, over the long-term the land would
 7 continue to be used for agricultural purposes. Because land uses would not change in the areas that would
 8 make the water available for single-year water transfers, there would be no changes in flood risk.

9 Single-year water transfers within the Delta would not result in new or substantially more severe
 10 significant adverse impacts related to flood risks in the areas that provide or use the transferred water due
 11 to construction activities because construction of infrastructure would not be anticipated to occur in
 12 connection with single-year water transfers. As described in Section 4.1.1, *Construction Activities and*
 13 *Water Transfers*, in this Addendum, single-year water transfers would not result in construction of new
 14 facilities in areas that provide the transferred water because there is not adequate time to construct the
 15 facilities following approval of the water transfer before actions must be implemented to provide the
 16 transferred water. Single-year water transfers also would not result in construction of new facilities or
 17 community growth in areas that use the transferred water because of the uncertainty of water availability
 18 from year to year. Information presented to the Council by DWR and SWRCB at the September 24, 2015
 19 Council meeting indicated that the volume of water involved in cross-Delta water transfers and the
 20 capacity to convey the transferred water in the SWP and CVP facilities varies annually. As described in
 21 Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, it would be difficult for
 22 purchasers of the transferred water to make long-term development decisions based on this intermittent
 23 and variable water supply. Therefore, there would be no effects due to single-year water transfers on
 24 drainage flows or changes to risks of structures or people due to flooding or inundation by seiche,
 25 tsunamis, or mudflows associated with single-year water transfers in the areas that provide or use the
 26 transferred water, and continued exemption of single-year water transfers from the covered action process
 27 would not be a change from existing conditions.

28 Single-year water transfers that use reservoir re-operation methods also would not result in new or
 29 substantially more severe significant adverse impacts related to flood risks. Surface water elevations in
 30 the reservoirs would become higher in some months if the transferred water is being stored for release
 31 later in the year or during the next water year. However, the reservoirs would continue to be operated
 32 within the surface water elevation criteria established for flood management. Therefore, single-year water
 33 transfers would not change flood management operations at reservoirs involved in reservoir re-operation
 34 methods for water transfers or flood flow patterns in the streams located downstream of these reservoirs.

35 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 36 substantially more severe significant adverse impacts on drainage flows or risks to structures or people
 37 due to flooding or inundation by seiche, tsunamis, or mudflows as compared to the conclusions in the
 38 Delta Plan PEIR, because there would be no change in existing conditions, and single-year water transfers
 39 would continue to be exempt from the definition of a covered action.

40

1 **5.5 Land Use and Planning**

2 The results of the land use and planning impact analysis were presented in Chapter 6 of the Delta Plan
3 PEIR (Council 2013a).

4

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 6-1: Cause a physical division of an established community?	No	No	No
Impact 6-2: Cause conflict of constructed facilities with an applicable land use plan, policy, regulation, or restriction on land that was adopted for the purpose of avoiding or mitigating an environmental impact?	No	No	No

5

6 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
7 from the covered action process; therefore, no change from existing conditions would occur. The Delta
8 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
9 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
10 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
11 subject to the covered action process.

12 **Impacts 6-1 and 6-2:** In accordance with CEQA, the Council considered information concerning whether
13 cross-Delta and/or in-Delta water transfers could cause significant adverse changes in land uses that could
14 cause a physical division of an established community, or cause a conflict of constructed facilities with
15 applicable land use plans, policies, regulations, or restrictions on land that were adopted for the purpose
16 of avoiding or mitigating an environmental impact. Based upon information in the Delta Plan PEIR,
17 information presented to the Council, and results from recent water transfer CEQA and NEPA documents
18 (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar*
19 *Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not
20 result in new or substantially more severe significant adverse impacts related to land use or construction
21 of new facilities that would result in land use changes.

22 Water conservation, crop shifting, groundwater substitution, and reservoir re-operation to make the
23 transferred water available would not change land uses because the land would continue to be used for
24 agriculture and cultivation would continue in the same manner as without water transfers. Although crop
25 idling would change the annual use of land during the water transfer period, over the long-term the land
26 would continue to be used for agricultural purposes. Therefore, land uses would not change in the areas
27 that would make the water available for single-year water transfers.

28 Single-year water transfers that occur within the Delta would not result in new or substantially more
29 severe significant adverse impacts to land use that could cause a physical division of an established
30 community, or cause a conflict of constructed facilities with applicable land use plans, policies,
31 regulations, or restrictions on land that were adopted for the purpose of avoiding or mitigating an

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1 environmental impact in the areas that provide or use the transferred water due to construction activities
 2 because construction of infrastructure would not be anticipated to occur in connection with single-year
 3 water transfers. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this
 4 Addendum, single-year water transfers would not result in construction of new facilities in areas that
 5 provide the transferred water because there is not adequate time to construct the facilities following
 6 approval of the water transfer before actions must be implemented to provide the transferred water.
 7 Single-year water transfers also would not result in construction of new facilities or community growth in
 8 areas that use the transferred water because of the uncertainty of water availability from year to year.
 9 Information presented to the Council by DWR and SWRCB at the September 24, 2015 Council meeting
 10 indicated that the volume of water involved in cross-Delta water transfers and the capacity to convey the
 11 transferred water in the SWP and CVP facilities varies annually. As described in Section 4.1.1,
 12 *Construction Activities and Water Transfers*, in this Addendum, it would be difficult for purchasers of the
 13 transferred water to make long-term development decisions based on this intermittent and variable water
 14 supply. Therefore, there would be no effects on land uses associated with single-year water transfers in
 15 the areas that provide or use the transferred water, and continued exemption of single-year water transfers
 16 from the covered action process would not be a change from existing conditions.

17 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 18 substantially more severe significant adverse impacts on land uses as compared to the conclusions in the
 19 Delta Plan PEIR, because there would be no change in existing conditions, and single-year water transfers
 20 would continue to be exempt from the definition of a covered action.

21 **5.6 Agriculture and Forestry Resources**

22 The results of the agriculture and forestry resources impact analysis were presented in Chapter 7 of the
 23 Delta Plan PEIR (Council 2013a).

24

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 7-1: Cause conversion of farmland to nonagricultural use?	No	No	No
Impact 7-2: Conflict with existing zoning for agricultural use or a Williamson Act Contract?	No	No	No
Impact 7-3: Conflict with existing zoning for, or cause rezoning of, forestland, timberland, or timberland zoned for timberland production?	No	No	No
Impact 7-4: Cause loss of forestland or conversion of forestland to nonforest use?	No	No	No

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 7-5: Involve other changes in the existing environment that, because of their location or nature, could result in conversion of farmland to nonagricultural use or conversion of forestland to nonforest use?	No	No	No

1

2 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
 3 from the covered action process; therefore, no change from existing conditions would occur. The Delta
 4 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
 5 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
 6 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
 7 subject to the covered action process.

8 **Impacts 7-1 through 7-5:** In accordance with CEQA, the Council considered information concerning
 9 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in
 10 agricultural and forestry resources. Based upon information in the Delta Plan PEIR, information presented
 11 to the Council, and results from recent water transfer CEQA and NEPA documents (Reclamation and
 12 SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar Programmatic*
 13 *Analyses of Water Transfers*, of this Addendum, single-year water transfers would not result in new or
 14 substantially more severe significant adverse impacts on long-term use of agricultural lands, disturbance
 15 of forestry resources, or construction of new facilities on agricultural or forestry resources.

16 Agricultural land uses would not substantially change in the areas that would make the water available for
 17 single-year water transfers because over the long-term the land would continue to be used for agricultural
 18 purposes. Water conservation, crop shifting, groundwater substitution, and reservoir re-operation to make
 19 the transferred water available would not change land uses because the land would continue to be used for
 20 agriculture and cultivation would continue in the same manner as without water transfers. Although crop
 21 idling would change the annual use of land during the water transfer period, over the long-term the land
 22 would continue to be used for agricultural purposes. Therefore, agricultural land uses would not change in
 23 the areas that would make the water available for single-year water transfers. As described in Section 4,
 24 *Overview of Water Transfers*, of this Addendum, water transfers that use SWP and/or CVP conveyance
 25 facilities must provide a detailed analysis of potential changes in cropping pattern for review by DWR
 26 and/or Reclamation to consider the extent of the crop idling and types of crops removed from cultivation
 27 during the water transfer. Many of the historical water transfers that have occurred within the Delta have
 28 used the SWP and/or CVP facilities. Over the long-term, the land involved in single-year water transfers
 29 would continue to be used for agricultural purposes.

30 Forest lands are generally not irrigated and, therefore, forest lands do not participate in water transfers and
 31 would not be changed due to single-year water transfers.

32 Single-year water transfers that occur within the Delta would not result in new or substantially more
 33 severe significant adverse impacts to agricultural and forestry resources in the areas that provide or use
 34 the transferred water due to construction activities because construction of infrastructure would not be
 35 anticipated to occur in connection with single-year water transfers. As described in Section 4.1.1,

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1 *Construction Activities and Water Transfers*, in this Addendum, single-year water transfers would not
 2 result in construction of new facilities in areas that provide the transferred water because there is not
 3 adequate time to construct the facilities following approval of the water transfer before actions must be
 4 implemented to provide the transferred water Single-year water transfers also would not result in
 5 construction of new facilities or community growth in areas that use the transferred water because of the
 6 uncertainty of water availability from year to year. Information presented to the Council by DWR and
 7 SWRCB at the September 24, 2015 Council meeting indicated that the volume of water involved in cross-
 8 Delta water transfers and the capacity to convey the transferred water in the SWP and CVP facilities
 9 varies annually. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this
 10 Addendum, it would be difficult for purchasers of the transferred water to make long-term development
 11 decisions based on this intermittent and variable water supply. Therefore, there would be no effects on
 12 agricultural and forestry resources associated with single-year water transfers in the areas that provide or
 13 use the transferred water, and continued exemption of single-year water transfers from the covered action
 14 process would not be a change from existing conditions.

15 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 16 substantially more severe significant adverse impacts on agricultural and forestry resources as compared
 17 to the conclusions in the Delta Plan PEIR, because there would be no change in existing conditions, and
 18 single-year water transfers would continue to be exempt from the definition of a covered action.

19 **5.7 Visual Resources**

20 The results of the visual resources impact analysis were presented in Chapter 8 of the Delta Plan PEIR
 21 (Council 2013a).

22

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 8-1: Cause substantial degradation of visual qualities?	No	No	No
Impact 8-2: Cause adverse effects on scenic vistas and scenic resources?	No	No	No
Impact 8-3: Cause new sources of substantial light or glare?	No	No	No

23

24 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
 25 from the covered action process; therefore, no change from existing conditions would occur. The Delta
 26 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
 27 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
 28 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
 29 subject to the covered action process.

30 **Impacts 8-1 through 8-3:** In accordance with CEQA, the Council considered information concerning
 31 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in visual
 32 resources. Based upon information in the Delta Plan PEIR, information presented to the Council, and

1 results from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015)
2 as described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water*
3 *Transfers*, of this Addendum, single-year water transfers would not result in new or substantially more
4 severe significant adverse impacts to visual resources due to changes in agricultural land uses or surface
5 water elevations at reservoirs or due to construction of new facilities that would result in changes in vistas
6 or sources of light or glare.

7 Visual resources associated with agricultural land uses would not change in the areas that would make the
8 water available for single-year water transfers because over the long-term the land would continue to be
9 used for agricultural purposes. Water conservation, crop shifting, groundwater substitution, and reservoir
10 re-operation to make the transferred water available would not change land uses because the land would
11 continue to be used for agriculture and cultivation would continue in the same manner as without water
12 transfers. Although crop idling would change the annual use of land during the water transfer period, over
13 the long-term the land would continue to be used for agricultural purposes. Therefore, the scenic vistas
14 associated with agricultural land would not change, and there would be no new infrastructure that would
15 result in an increase in ambient light and glare related to the agricultural areas that would make water
16 available. Use of single-year water transfers could improve scenic vistas related to irrigated agricultural
17 lands in areas that use the transferred water.

18 Single-year water transfers that use reservoir re-operation methods also would not result in new or
19 substantially more severe significant adverse impacts to visual resources at the involved reservoirs.
20 Surface water elevations in the reservoirs may become higher in some months if the transferred water is
21 being stored for release later in the year or during the next water year. However, the reservoirs would
22 continue to be operated within the surface water elevation criteria established for flood management and
23 drought conditions which would continue to support traditional visual resources. Therefore, single-year
24 water transfers would not change visual resources at reservoirs involved in reservoir re-operation methods
25 for water transfers.

26 Single-year water transfers that occur within the Delta would not result in new or substantially more
27 severe significant adverse impacts to visual resources in the areas that provide or use the transferred water
28 due to construction activities because construction of infrastructure would not be anticipated to occur in
29 connection with single-year water transfers. As described in Section 4.1.1, *Construction Activities and*
30 *Water Transfers*, in this Addendum, single-year water transfers would not result in construction of new
31 facilities in areas that provide the transferred water because there is not adequate time to construct the
32 facilities following approval of the water transfer before actions must be implemented to provide the
33 transferred water. Single-year water transfers also would not result in construction of new facilities or
34 community growth in areas that use the transferred water because of the uncertainty of water availability
35 from year to year. Information presented to the Council by DWR and SWRCB at the September 24, 2015
36 Council meeting indicated that the volume of water involved in cross-Delta water transfers and the
37 capacity to convey the transferred water in the SWP and CVP facilities varies annually. As described in
38 Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, it would be difficult for
39 purchasers of the transferred water to make long-term development decisions based on this intermittent
40 and variable water supply. Therefore, there would be no effects on visual resources associated with
41 single-year water transfers in the areas that provide or use the transferred water, and continued exemption
42 of single-year water transfers from the covered action process would not be a change from existing
43 conditions.

44 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
45 substantially more severe significant adverse impacts on visual resources as compared to the conclusions
46 in the Delta Plan PEIR, because there would be no change in existing conditions, and single-year water
47 transfers would continue to be exempt from the definition of a covered action.

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1 **5.8 Air Quality**

2 The results of the air quality impact analysis were presented in Chapter 9 of the Delta Plan PEIR (Council
3 2013a).

4

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 9-1: Cause construction and operations of projects could conflict with an applicable Air Quality Plan, contribute substantially to an air quality violation, and/or result in a cumulatively considerable net increase of nonattainment pollutants?	No	No	No
Impact 9-2: Cause construction and operations of projects could create objectionable odors affecting a substantial number of people?	No	No	No
Impact 9-3: Cause construction or operation of projects could expose sensitive receptors to substantial pollutant concentrations?	No	No	No

5

6 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
7 from the covered action process; therefore, no change from existing conditions would occur. The Delta
8 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
9 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
10 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
11 subject to the covered action process.

12 **Impacts 9-1 through 9-3:** In accordance with CEQA, the Council considered information concerning
13 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in air quality.
14 Based upon information in the Delta Plan PEIR, information presented to the Council, and results from
15 recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015) as
16 described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*,
17 of this Addendum, single-year water transfers would not result in new or substantially more severe
18 significant adverse impacts to air quality and odor emissions related to changes in agricultural land uses
19 and related dust generation from crop idling or fallowed lands, emissions from diesel engines used for
20 groundwater pumping, or increased traffic due to community growth.

1 Single-year water transfers would not result in changes in long-term air quality conditions because there
2 would not be changes in land use of agricultural lands due to long-term fallowing and related generation
3 of dust, changes in emissions from diesel engines from groundwater pumps used for groundwater
4 substitution, or construction of new facilities. Water conservation, crop shifting, groundwater substitution,
5 and reservoir re-operation to make the transferred water available would not change land uses because the
6 land would continue to be used for agriculture and cultivation would continue in the same manner as
7 without water transfers. Air quality conditions would not change with single-year water transfers as
8 compared to conditions without single-year water transfers because the lands would remain in cultivation
9 over the long-term. Crop idling would change the annual use of land and agricultural practices during the
10 water transfer period; however, these changes would be similar to ongoing patterns of crop idling due to
11 land management and responses to agricultural markets. The Delta Plan PEIR identified Mitigation
12 Measure 9-1, which as adopted and incorporated into the Delta Plan, includes Best Management Practices
13 for crop-idled lands, including maintenance of crop residue from the last crop, seeding of land, avoiding
14 cultivating idled lands, soil stabilization chemicals, and establishment of wind breaks to reduce wind
15 erosion. Recent water transfer CEQA and NEPA documents (Reclamation 2014, 2015) as described in
16 Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*, of this
17 Addendum), also described surface soil erosion techniques that would reduce dust generation. These
18 types of practices are frequently used in agricultural areas during normal crop rotational practices that
19 result in idled crop land. In addition, as described in Section 4, *Overview of Water Transfers*, of this
20 Addendum, water transfers that use SWP and/or CVP conveyance facilities must provide a detailed
21 analysis of potential changes in cropping pattern and management of the land to protect the soil from
22 erosion and dust generation. Most water transfers that occur within the Delta require the use of SWP
23 and/or CVP conveyance facilities.

24 Water transfers that require use of SWP and/or CVP conveyance facilities must submit documentation to
25 DWR and/or Reclamation that verifies the use of electric-powered groundwater pumps for groundwater
26 substitution, or verifies compliance with California Air Resources Board or local Air Pollution Control
27 District regulations for diesel or natural gas-powered groundwater pumps. Most water transfers that occur
28 within the Delta require the use of SWP and/or CVP conveyance facilities. The agricultural fields that
29 would be part of water transfers generally would not be located near sensitive receptors (e.g., schools,
30 hospitals). Therefore, no change in emission potential near sensitive receptors would occur due to single-
31 year water transfers. In recent water transfer CEQA and NEPA documents (Reclamation 2014, 2015) as
32 described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*,
33 of this Addendum), potential changes in air quality due to groundwater substitution were determined to be
34 less than significant with implementation of mitigation measures currently included in approval criteria
35 used by DWR and Reclamation for water transfers (see Section 4.2.3.1, *Department of Water Resources
36 and Bureau of Reclamation Water Transfer White Paper Requirements*, in this Addendum). Therefore,
37 effects due to single-year water transfers on air quality in areas that provide transferred water would be
38 minimal and continued exemption of single-year water transfers from the covered action process would
39 not be a change from existing conditions.

40 Single-year water transfers that occur within the Delta would not result in new or substantially more
41 severe significant adverse impacts to air quality because there would be no changes to air quality and odor
42 emissions in the areas that provide or use the transferred water due to construction activities, because
43 there would be no changes in land use or construction of infrastructure would not be anticipated to occur
44 in connection with single-year water transfers. As described in Section 4.1.1, *Construction Activities and
45 Water Transfers*, in this Addendum, single-year water transfers would not result in construction of new
46 facilities in areas that provide the transferred water because there is not adequate time to construct the
47 facilities following approval of the water transfer before actions must be implemented to provide the
48 transferred water. Single-year water transfers also would not result in construction of new facilities or
49 community growth in areas that use the transferred water because of the uncertainty of water availability

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1 from year to year. Information presented to the Council by DWR and SWRCB at the September 24, 2015
 2 Council meeting indicated that the volume of water involved in cross-Delta water transfers and the
 3 capacity to convey the transferred water in the SWP and CVP facilities varies annually. As described in
 4 Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, it would be difficult for
 5 purchasers of the transferred water to make long-term development decisions which could change air
 6 quality conditions based on this intermittent and variable water supply. Therefore, there would be no
 7 effects on land uses and associated air quality associated with single-year water transfers in the areas that
 8 provide or use the transferred water, and continued exemption of single-year water transfers from the
 9 covered action process would not be a change from existing conditions.

10 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result new or substantially
 11 more severe significant adverse impacts on air quality as compared to the conclusions in the Delta Plan
 12 PEIR, because there would be no change in existing conditions, and single-year water transfers would
 13 continue to be exempt from the definition of a covered action.

14 **5.9 Cultural Resources**

15 The results of the cultural resources impact analysis were presented in Chapter 10 of Delta Plan PEIR
 16 (Council 2013a).

17

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 10-1: Cause disturbance or destruction of prehistoric and historic-era archaeological resources?	No	No	No
Impact 10-2: Cause discovery of unrecorded human remains?	No	No	No
Impact 10-3: Cause disturbance or destruction of historic buildings, structures, and linear features?	No	No	No
Impact 10-4: Cause disturbance or destruction of cultural landscapes and traditional cultural properties?	No	No	No

18

19 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
 20 from the covered action process; therefore, no change from existing conditions would occur. The Delta
 21 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
 22 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
 23 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
 24 subject to the covered action process.

1 **Impacts 10-1 through 10-4:** In accordance with CEQA, the Council considered information concerning
2 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in cultural
3 resources. Based upon information in the Delta Plan PEIR, information presented to the Council, and
4 results from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015)
5 as described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water*
6 *Transfers*, of this Addendum, single-year water transfers would not result in new or substantially more
7 severe significant adverse impacts to cultural resources because there would be no changes in land use or
8 construction of new facilities that would result in cultural resources changes.

9 Cultural resources would not be disturbed or destroyed in the areas that would make the water available
10 for single-year water transfers because over the long-term the land would continue to be used for
11 agricultural purposes without construction of new infrastructure. Water conservation, crop shifting,
12 groundwater substitution, and reservoir re-operation to make the transferred water available would not
13 change land uses because the land would continue to be used for agriculture and cultivation would
14 continue in the same manner as without water transfers. Although crop idling would change the annual
15 use of land during the water transfer period, over the long-term the land would continue to be used for
16 agricultural purposes. Therefore, the potential to disturb or destroy cultural resources would not change in
17 the areas that would make the water available for single-year water transfers.

18 Single-year water transfers that use reservoir re-operation methods also would not result in new or
19 substantially more severe significant adverse impacts related to exposure of cultural resources. Surface
20 water elevations in the reservoirs would become higher in some months if the transferred water is being
21 stored for release later in the year or during the next water year. However, the reservoir would continue to
22 be operated within the surface water elevation criteria established for flood management and drought
23 conditions. Therefore, single-year water transfers would not substantially change exposure of cultural
24 resources at reservoirs involved in reservoir re-operation methods for water transfers.

25 Single-year water transfers that occur within the Delta would not result in new or substantially more
26 severe significant adverse impacts to cultural resources, because there would be no changes inland uses
27 that would disturb or expose cultural resources in the areas that provide or use the transferred water and
28 construction of infrastructure would not be anticipated to occur in connection with single-year water
29 transfers. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum,
30 single-year water transfers would not result in construction of new facilities in areas that provide the
31 transferred water because there is not adequate time to construct the facilities following approval of the
32 water transfer before actions must be implemented to provide the transferred water. Single-year water
33 transfers also would not result in construction of new facilities or community growth in areas that use the
34 transferred water because of the uncertainty of water availability from year to year. Information presented
35 to the Council by DWR and SWRCB at the September 24, 2015 Council meeting indicated that the
36 volume of water involved in cross-Delta water transfers and the capacity to convey the transferred water
37 in the SWP and CVP facilities varies annually. As described in Section 4.1.1, *Construction Activities and*
38 *Water Transfers*, in this Addendum, it would be difficult for purchasers of the transferred water to make
39 long-term development decisions based on this intermittent and variable water supply. Therefore, there
40 would be no effects on land uses or construction activities that would affect cultural resources associated
41 with single-year water transfers in the areas that provide or use the transferred water, and continued
42 exemption of single-year water transfers from the covered action process would not be a change from
43 existing conditions.

44 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
45 substantially more severe significant adverse impacts on cultural resources as compared to the
46 conclusions in the Delta Plan PEIR, because there would be no change in existing conditions, and single-
47 year water transfers would continue to be exempt from the definition of a covered action.

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1 **5.10 Geology and Soils**

2 The results of the geology and soils impact analysis were presented in Chapter 11 of the Delta Plan PEIR
3 (Council 2013a).

4

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 11-1: Cause exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault?	No	No	No
Impact 11-2: Cause exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death due to strong ground motion associated with seismic shaking?	No	No	No
Impact 11-3: Cause construction and operations of projects could be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in loss of bearing value, lateral spreading, subsidence, liquefaction or collapse?	No	No	No
Impact 11-4: Cause construction of projects could result in substantial soil erosion or the loss of topsoil?	No	No	No
Impact 11-5: Cause construction of projects could lead to impacts associated with the presence of expansive soils?	No	No	No

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 11-6: Cause operation of projects could result in impacts associated with the occurrence of nuisance water in adjacent areas due to leakage?	No	No	No
Impact 11-7: Cause exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?	No	No	No
Impact 11-8: Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	No	No	No
Impact 11-9: Cause substantial risks to life or property due to construction of project facilities on high organic matter soils?	No	No	No

1

2 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
3 from the covered action process; therefore, no change from existing conditions would occur. The Delta
4 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
5 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
6 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
7 subject to the covered action process.

8 **Impacts 11-1, 11-2, and 11-5 through 11-9:** In accordance with CEQA, the Council considered
9 information concerning whether cross-Delta and/or in-Delta water transfers could cause significant
10 adverse changes in geology and soils resources. Based upon information in the Delta Plan PEIR,
11 information presented to the Council, and results from recent water transfer CEQA and NEPA documents
12 (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar*
13 *Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not
14 result in new or substantially more severe significant adverse impacts because there would be no changes
15 in land use or construction of new facilities that would result in changes in geology and soils, including
16 placement of structures or people in areas that would increase the risks due to seismic activity,
17 construction on expansive soils, nuisance water, landslides, discharge of wastewater, or high organic
18 matter soils.

19 Potential changes in geology and soils, including placement of structures or people in areas that would
20 increase the risks due to seismic activity, construction on expansive soils, nuisance water, landslides,

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1 discharge of wastewater, or high organic matter soils would not change in the areas that would make the
 2 water available for single-year water transfers because over the long-term the land would continue to be
 3 used for agricultural purposes and not result in the construction of new structures or excavations. Water
 4 conservation, crop shifting, groundwater substitution, and reservoir re-operation to make the transferred
 5 water available would not change land uses because the land would continue to be used for agriculture
 6 and cultivation would continue in the same manner as without water transfers. Although crop idling
 7 would change the annual use of land during the water transfer period, over the long-term the land would
 8 continue to be used for agricultural purposes. Therefore, no changes in land uses in the areas that would
 9 make the water available for single-year water transfers would occur which would result in placement of
 10 structures or people in areas that would increase the risks due to seismic activity, construction on
 11 expansive soils, nuisance water, landslides, discharge of wastewater, or high organic matter soils.

12 Single-year water transfers that occur within the Delta would not result in new or substantially more
 13 severe significant adverse impacts on geology and soils in the areas that provide or use the transferred
 14 water due to construction activities, because construction of infrastructure would not be anticipated to
 15 occur in connection with single-year water transfers. As described in Section 4.1.1, *Construction*
 16 *Activities and Water Transfers*, in this Addendum, single-year water transfers would not result in
 17 construction of new facilities in areas that provide the transferred water because there is not adequate time
 18 to construct the facilities following approval of the water transfer before actions must be implemented to
 19 provide the transferred water. Single-year water transfers also would not result in construction of new
 20 facilities or community growth in areas that use the transferred water because of the uncertainty of water
 21 availability from year to year. Information presented to the Council by DWR and SWRCB at the
 22 September 24, 2015 Council meeting indicated that the volume of water involved in cross-Delta water
 23 transfers and the capacity to convey the transferred water in the SWP and CVP facilities varies annually.
 24 As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, it would
 25 be difficult for purchasers of the transferred water to make long-term development decisions based on this
 26 intermittent and variable water supply. Therefore, there would be no effects on land uses that would affect
 27 geology and soils that would increase the risks due to seismic activity, construction on expansive soils,
 28 nuisance water, landslides, discharge of wastewater, or high organic matter soils associated with single-
 29 year water transfers in the areas that provide or use the transferred water, and continued exemption of
 30 single-year water transfers from the covered action process would not be a change from existing
 31 conditions.

32 **Impact 11-3:** In accordance with CEQA, the Council considered information concerning whether cross-
 33 Delta and/or in-Delta water transfers could cause significant adverse changes in geology and soils
 34 resources. Based upon information in the Delta Plan PEIR, information presented to the Council, and
 35 results from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015)
 36 as described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water*
 37 *Transfers*, of this Addendum, single-year water transfers would not result in new or substantially more
 38 severe significant adverse impacts related to increased land subsidence due to groundwater pumping.

39 As described under Impacts 11-1, 11-2, and 11-5 through 11-9, single-year water transfers would not
 40 result in land use changes or construction of infrastructure that would increase risks due to placement of
 41 structures or people on unstable soils that would be subject to a loss in bearing value, lateral spreading,
 42 liquefaction, or collapse.

43 Single-year water transfers also would not result in new or substantially more severe significant adverse
 44 impacts related to changes in localized subsidence. As described in Section 4.3, *Recent Cross-Delta*
 45 *Water Transfers*, and Section 5.2, *Water Resources*, of this Addendum, groundwater substitution has been
 46 used for 6 of the 13 years between 2001 and 2013. In those 6 years, groundwater substitution represented
 47 5 percent or less of the total amount of groundwater pumped in the Sacramento Valley (DWR 2013,
 48 2015). As discussed in recent water transfer CEQA and NEPA documents (see Section 5.1, *Consideration*

1 of *Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum), changes in local
 2 subsidence conditions due to groundwater substitution were determined to be less than significant with
 3 implementation of mitigation measures currently included in approval criteria used by DWR and
 4 Reclamation (Reclamation and SLDMWA 2014, 2015). Water transfer proposals should include detailed
 5 analyses of potential groundwater conditions and implementation of groundwater mitigation and
 6 monitoring plans if groundwater substitution would be used for water transfers for water transfers that use
 7 SWP and/or CVP conveyance facilities. Single-year water transfers approved only by the SWRCB would
 8 be implemented in a manner that does not result in injury to other legal water users, including changes to
 9 groundwater conditions caused by subsidence, and also would require analysis of groundwater conditions
 10 if groundwater substitution methods would be used. The number of single-year water transfers that occur
 11 within the Delta that do not need to analyze groundwater conditions because they would not require
 12 approvals by the SWRCB, DWR, or Reclamation would be minimal, because most water transfers that
 13 occur within the Delta would require use of SWP and CVP facilities. Therefore, effects due to single-year
 14 water transfers on groundwater conditions and associated land subsidence in the Sacramento Valley or the
 15 Delta would be minimal and continued exemption of single-year water transfers from the covered action
 16 process would not be a change from existing conditions.

17 **Impact 11-4:** In accordance with CEQA, the Council considered information concerning whether cross-
 18 Delta and/or in-Delta water transfers could cause significant adverse changes in geology and soils
 19 resources. Based upon information in the Delta Plan PEIR, information presented to the Council, and
 20 results from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015)
 21 as described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water*
 22 *Transfers*, of this Addendum, single-year water transfers would not result in new or substantially more
 23 severe significant adverse impacts related to topsoil erosion on crop idled lands.

24 Crop idling would change the annual use of land and agricultural practices during the water transfer
 25 period; however, these changes would be similar to ongoing patterns of crop idling due to land
 26 management and responses to agricultural markets. The Delta Plan PEIR identified Mitigation Measure 9-
 27 1, which as adopted and incorporated into the Delta Plan, includes Best Management Practices for crop-
 28 idled lands, including maintenance of crop residue from the last crop, seeding of land, avoiding
 29 cultivating idled lands, soil stabilization chemicals, and establishment of wind breaks to reduce wind
 30 erosion. Recent water transfer CEQA and NEPA documents (Reclamation 2014, 2015) as described in
 31 Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*, of this
 32 Addendum), also described surface soil erosion techniques that would reduce dust generation. These
 33 types of practices are frequently used in agricultural areas during normal crop rotational practices that
 34 result in idled crop land. In addition, as described in Section 4, *Overview of Water Transfers*, of this
 35 Addendum, water transfers that use SWP and/or CVP conveyance facilities must provide a detailed
 36 analysis of potential changes in cropping pattern and management of the land to protect the soil from
 37 erosion. Most water transfers that occur within the Delta require the use of SWP and/or CVP conveyance
 38 facilities. Therefore, there would be no effects due to single-year water transfers on potential wind erosion
 39 associated with single-year water transfers in the areas that provide the transferred water, and continued
 40 exemption of single-year water transfers from the covered action process would not be a change from
 41 existing conditions.

42 In areas that use the transferred water, the risk of wind erosion would be reduced if the transferred water
 43 was used on idled crop lands.

44 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 45 substantially more severe significant adverse impacts on geology and soils as compared to the conclusions
 46 in the Delta Plan PEIR, because there would be no change in existing conditions, and single-year water
 47 transfers would continue to be exempt from the definition of a covered action.

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1 5.11 Paleontological Resources

2 The results of the paleontological resources impact analysis were presented in Chapter 12 of the Delta
3 Plan PEIR (Council 2013a).

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 12-1: Cause destruction of paleontological resources or unique geological features?	No	No	No

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6 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
7 from the covered action process; therefore, no change from existing conditions would occur. The Delta
8 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
9 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
10 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
11 subject to the covered action process.

12 **Impact 12-1:** In accordance with CEQA, the Council considered information concerning whether cross-
13 Delta and/or in-Delta water transfers could cause significant adverse changes in paleontological
14 resources. Based upon information in the Delta Plan PEIR, information presented to the Council, and
15 results from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015)
16 as described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water*
17 *Transfers*, of this Addendum, single-year water transfers would not result in new or substantially more
18 severe significant adverse impacts, because there would be no changes related to land use, reservoir
19 surface water elevations, or construction of new facilities that would result in paleontological resources
20 changes.

21 The potential for destruction of paleontological resources would not change in the areas that would make
22 the water available for single-year water transfers because over the long-term the land would continue to
23 be used for agricultural purposes and no construction would be anticipated. Water conservation, crop
24 shifting, groundwater substitution, and reservoir re-operation to make the transferred water available
25 would not change land uses because the land would continue to be used for agriculture and cultivation
26 would continue in the same manner as without water transfers. Although crop idling would change the
27 annual use of land during the water transfer period, over the long-term the land would continue to be used
28 for agricultural purposes. Therefore, the potential for disturbance of paleontological resources would not
29 change because the land uses would not change in the areas that would make the water available for
30 single-year water transfers.

31 Single-year water transfers that use reservoir re-operation methods also would not result in new or
32 substantially more severe significant adverse impacts related to exposure of paleontological resources.
33 Surface water elevations in the reservoirs would become higher in some months if the transferred water is
34 being stored for release later in the year or during the next water year. However, the reservoir would
35 continue to be operated within the surface water elevation criteria established for flood management and
36 drought conditions. Therefore, single-year water transfers would not substantially change exposure of
37 paleontological resources at reservoirs involved in reservoir re-operation methods for water transfers.

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1 Single-year water transfers that occur within the Delta would not result in new or substantially more
 2 severe significant adverse impacts related to changes inland uses that would disturb or expose
 3 paleontological resources in the areas that provide or use the transferred water due to construction
 4 activities because construction of infrastructure would not be anticipated to occur in connection with
 5 single-year water transfers. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in
 6 this Addendum, single-year water transfers would not result in construction of new facilities in areas that
 7 provide the transferred water because there is not adequate time to construct the facilities following
 8 approval of the water transfer before actions must be implemented to provide the transferred water
 9 Single-year water transfers also would not result in construction of new facilities or community growth in
 10 areas that use the transferred water because of the uncertainty of water availability from year to year.
 11 Information presented to the Council by DWR and SWRCB at the September 24, 2015 Council meeting
 12 indicated that the volume of water involved in cross-Delta water transfers and the capacity to convey the
 13 transferred water in the SWP and CVP facilities varies annually. As described in Section 4.1.1,
 14 *Construction Activities and Water Transfers*, in this Addendum, it would be difficult for purchasers of the
 15 transferred water to make long-term development decisions based on this intermittent and variable water
 16 supply. Therefore, there would be no effects on land uses or construction that could result in disturbance
 17 of paleontological resources associated with single-year water transfers in the areas that provide or use the
 18 transferred water, and continued exemption of single-year water transfers from the covered action process
 19 would not be a change from existing conditions.

20 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 21 substantially more severe significant adverse impacts on paleontological resources as compared to the
 22 conclusions in the Delta Plan PEIR, because there would be no change in existing conditions, and single-
 23 year water transfers would continue to be exempt from the definition of a covered action.

24 5.12 Mineral Resources

25 The results of the mineral resources impact analysis were presented in Chapter 13 of the Delta Plan PEIR
 26 (Council 2013a).

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 13-1: Cause loss of availability of a known mineral resource that would be of value to the region and residents of the State?	No	No	No
Impact 13-2: Cause loss of availability of a locally Important Mineral Resource Recovery Site delineated on a local general plan, specific plan, or other land use plan?	No	No	No

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29 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
 30 from the covered action process; therefore, no change from existing conditions would occur. The Delta

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1 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
 2 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
 3 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
 4 subject to the covered action process.

5 **Impacts 13-1 and 13-2:** In accordance with CEQA, the Council considered information concerning
 6 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes on mineral
 7 resources. Based upon information in the Delta Plan EIR, information presented to the Council, and
 8 results from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015)
 9 as described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water*
 10 *Transfers*, of this Addendum, single-year water transfers would not result in new or substantially more
 11 severe significant adverse impacts related to changes in land use or construction of new facilities that
 12 would result in changes to mineral resources.

13 The potential for loss of mineral resources would not change in the areas that would make the water
 14 available for single-year water transfers because over the long-term the land would continue to be used
 15 for agricultural purposes. Water conservation, crop shifting, groundwater substitution, and reservoir re-
 16 operation to make the transferred water available would not change land uses because the land would
 17 continue to be used for agriculture and cultivation would continue in the same manner as without water
 18 transfers. Although crop idling would change the annual use of land during the water transfer period, over
 19 the long-term the land would continue to be used for agricultural purposes. Therefore, mineral resources
 20 conditions would not change because land uses would not change in the areas that would make the water
 21 available for single-year water transfers.

22 Single-year water transfers that occur within the Delta would not result in new or substantially more
 23 severe significant adverse impacts related to changes inland uses that would affect mineral resources in
 24 the areas that provide or use the transferred water due to construction activities because construction of
 25 infrastructure would not be anticipated to occur in connection with single-year water transfers. As
 26 described in Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, single-year
 27 water transfers would not result in construction of new facilities in areas that provide the transferred water
 28 because there is not adequate time to construct the facilities following approval of the water transfer
 29 before actions must be implemented to provide the transferred water. Single-year water transfers also
 30 would not result in construction of new facilities or community growth in areas that use the transferred
 31 water because of the uncertainty of water availability from year to year. Information presented to the
 32 Council by DWR and SWRCB at the September 24, 2015 Council meeting indicated that the volume of
 33 water involved in cross-Delta water transfers and the capacity to convey the transferred water in the SWP
 34 and CVP facilities varies annually. As described in Section 4.1.1, *Construction Activities and Water*
 35 *Transfers*, in this Addendum, it would be difficult for purchasers of the transferred water to make long-
 36 term development decisions based on this intermittent and variable water supply. Therefore, there would
 37 be no effects on mineral resources associated with single-year water transfers in the areas that provide or
 38 use the transferred water, and continued exemption of single-year water transfers from the covered action
 39 process would not be a change from existing conditions.

40 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 41 substantially more severe significant adverse impacts on mineral resources as compared to the
 42 conclusions in the Delta Plan PEIR, because there would be no change in existing conditions, and single-
 43 year water transfers would continue to be exempt from the definition of a covered action.

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1 **5.13 Hazards and Hazardous Materials**

2 The results of the hazards and hazardous materials impact analysis were presented in Chapter 14 of the
3 Delta Plan PEIR (Council 2013a).

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 14-1: Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	No	No	No
Impact 14-2: Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code, Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?	No	No	No
Impact 14-3: Create Vector habitat that would pose a significant public health hazard?	No	No	No
Impact 14-4: Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?	No	No	No
Impact 14-5: Increase safety hazards for people residing in or working in the project areas within the vicinity of a private airstrip, within an airport land use plan, or within 2 miles of a public airport or public use airport, or create airport safety hazards?	No	No	No

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 14-6: Expose people or structures to a significant risk of loss, injury or death involving wildland fires?	No	No	No

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The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers from the covered action process; therefore, no change from existing conditions would occur. The Delta Plan determined that single-year water transfers occurring before December 31, 2016 would not have a significant adverse impact on the coequal goals. As a result of this determination, such single-year water transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not subject to the covered action process.

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Impacts 14-1 through 14-6: In accordance with CEQA, the Council considered information concerning whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes related to exposure of the public or the environment to hazards and hazardous materials. Based upon information in the Delta Plan EIR, information presented to the Council, and results from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not result in new or substantially more severe significant adverse impacts related to changes in land use or construction of new facilities that would increase the risk of people or structures to be exposed to hazardous materials, hazards, wildland fires, or vector habitats that would result in public health hazards.

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The potential for increased exposure of the public or the environment to hazards or hazardous materials would not change in the areas that would make the water available for single-year water transfers because over the long-term the land uses would not change. Water conservation, crop shifting, groundwater substitution, and reservoir re-operation to make the transferred water available would not change land uses because the land would continue to be used for agriculture and cultivation would continue in the same manner as without water transfers. Although crop idling would change the annual use of land during the water transfer period, over the long-term the land would continue to be used for agricultural purposes. Because land uses would not change in the areas that would make the water available for single-year water transfers, agricultural practices would continue in the areas that provide the transferred water without changing the potential for exposure of people or structures to hazardous materials, hazards, wildland fires, or vector habitats that would result in public health hazards.

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Single-year water transfers that occur within the Delta would not result in new or substantially more severe significant adverse impacts related to changes inland uses that would result in changes for exposure of people or structures to hazardous materials, hazards, wildland fires, or vector habitats in the areas that provide or use the transferred water due to construction activities because construction of infrastructure would not be anticipated to occur in connection with single-year water transfers. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, single-year water transfers would not result in construction of new facilities in areas that provide the transferred water because there is not adequate time to construct the facilities following approval of the water transfer before actions must be implemented to provide the transferred water. Single-year water transfers also would not result in construction of new facilities or community growth in areas that use the transferred water because of the uncertainty of water availability from year to year. Information presented to the

1 Council by DWR and SWRCB at the September 24, 2015 Council meeting indicated that the volume of
 2 water involved in cross-Delta water transfers and the capacity to convey the transferred water in the SWP
 3 and CVP facilities varies annually. As described in Section 4.1.1, *Construction Activities and Water*
 4 *Transfers*, in this Addendum, it would be difficult for purchasers of the transferred water to make long-
 5 term development decisions based on this intermittent and variable water supply. Therefore, there would
 6 be no effects on land uses that would change the potential for exposure of people or structures to
 7 hazardous materials, hazards, wildland fires, or vector habitats associated with single-year water transfers
 8 in the areas that provide or use the transferred water, and continued exemption of single-year water
 9 transfers from the covered action process would not be a change from existing conditions.

10 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in changes in land use
 11 or construction of new facilities that would result in new or substantially more severe significant adverse
 12 impacts related to the potential for exposure of people or structures to hazardous materials, hazards,
 13 wildland fires, or vector habitat as compared to the conclusions in the Delta Plan PEIR, because there
 14 would be no change in existing conditions, and single-year water transfers would continue to be exempt
 15 from the definition of a covered action.

16 5.14 Noise

17 The results of the noise impact analysis were presented in Chapter 15 of the Delta Plan PEIR (Council
 18 2013a).

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 15-1: Cause exposure of sensitive receptors to excessive temporary, short-term construction noise?	No	No	No
Impact 15-2: Cause temporary and short-term exposure of sensitive receptors to excessive groundborne vibrations?	No	No	No
Impact 15-3: Cause long- term exposure of sensitive receptors to excessive noise from operations?	No	No	No

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 21 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
 22 from the covered action process; therefore, no change from existing conditions would occur. The Delta
 23 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
 24 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
 25 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
 26 subject to the covered action process.

27 **Impacts 15-1 and 15-2:** In accordance with CEQA, the Council considered information concerning
 28 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in noise or
 29 groundborne vibrations. Based upon information in the Delta Plan PEIR, information presented to the

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1 Council, and results from recent water transfer CEQA and NEPA documents (Reclamation and
2 SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar Programmatic*
3 *Analyses of Water Transfers*, of this Addendum, single-year water transfers would not result in new or
4 substantially more severe significant adverse impacts related to changes in land use or construction of
5 new facilities that would result in changes in noise or groundborne vibrations.

6 Single-year water transfers that occur within the Delta would not result in new or substantially more
7 severe significant adverse impacts on noise or cause groundborne vibrations in the areas that provide or
8 use the transferred water due to construction activities because construction of infrastructure would not be
9 anticipated to occur in connection with single-year water transfers. As described in Section 4.1.1,
10 *Construction Activities and Water Transfers*, in this Addendum, single-year water transfers would not
11 result in construction of new facilities in areas that provide the transferred water because there is not
12 adequate time to construct the facilities following approval of the water transfer before actions must be
13 implemented to provide the transferred water. Single-year water transfers also would not result in
14 construction of new facilities or community growth in areas that use the transferred water because of the
15 uncertainty of water availability from year to year. Information presented to the Council by DWR and
16 SWRCB at the September 24, 2015 Council meeting indicated that the volume of water involved in cross-
17 Delta water transfers and the capacity to convey the transferred water in the SWP and CVP facilities
18 varies annually. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this
19 Addendum, it would be difficult for purchasers of the transferred water to make long-term development
20 decisions based on this intermittent and variable water supply. Therefore, there would be no effects on
21 noise or groundborne vibrations associated with single-year water transfers in the areas that provide or
22 use the transferred water, and continued exemption of single-year water transfers from the covered action
23 process would not be a change from existing conditions.

24 **Impact 15-3:** In accordance with CEQA, the Council considered information concerning whether cross-
25 Delta and/or in-Delta water transfers could cause significant adverse changes in long-term exposure of
26 sensitive receptors to excessive noise during operations. Based upon information in the Delta Plan PEIR,
27 information presented to the Council, and results from recent water transfer CEQA and NEPA documents
28 (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar*
29 *Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not
30 result in new or substantially more severe significant adverse impacts related to changes in land use or
31 construction of new facilities that would result in changes in noise.

32 Single-year water transfers would not result in new or substantially more severe significant adverse
33 impacts to noise conditions due to equipment operations, including noise during operations of
34 groundwater pumps for groundwater substitution methods. As described in Section 4.3, *Recent Cross-*
35 *Delta Water Transfers*, and Section 5.2, *Water Resources*, of this Addendum, groundwater substitution
36 has been used for 6 of the 13 years between 2001 and 2013. In those 6 years, groundwater substitution
37 represented 5 percent or less of the total amount of groundwater pumped in the Sacramento Valley (DWR
38 2013, 2015). As discussed in recent water transfer CEQA and NEPA documents (see Section 5.1,
39 *Consideration of Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum),
40 changes in noise conditions due to groundwater substitution were determined to be less than significant
41 with implementation of mitigation measures currently included in approval criteria used by DWR and
42 Reclamation (Reclamation and SLDMWA 2014, 2015). Increase in noise due to additional groundwater
43 pump use during groundwater substitution actions would occur in agricultural fields that would not be
44 located near sensitive receptors (e.g., schools, hospitals). Therefore, effects due to single-year water
45 transfers on noise in the Sacramento Valley or the Delta would be minimal and continued exemption of
46 single-year water transfers from the covered action process would not be a change from existing
47 conditions.

1 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 2 substantially more severe significant adverse impacts on noise or groundborne vibrations as compared to
 3 the conclusions in the Delta Plan, because there would be no change in existing conditions, and single-
 4 year water transfers would continue to be exempt from the definition of a covered action.

5 5.15 Population and Housing

6 The results of the population and housing impact analysis were presented in Chapter 16 of the Delta Plan
 7 PEIR (Council 2013a).

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 16-1: Induce substantial population growth in an area, either directly or indirectly?	No	No	No
Impact 16-2: Displace substantial numbers of existing housing and/or people, necessitating the construction of replacement housing elsewhere?	No	No	No

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10 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
 11 from the covered action process; therefore, no change from existing conditions would occur. The Delta
 12 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
 13 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
 14 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
 15 subject to the covered action process.

16 **Impacts 16-1 and 16-2:** In accordance with CEQA, the Council considered information concerning
 17 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in population
 18 and housing. Based upon information in the Delta Plan PEIR, information presented to the Council, and
 19 results from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015)
 20 as described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water*
 21 *Transfers*, of this Addendum, single-year water transfers would not result in new or substantially more
 22 severe significant adverse impacts related to changes in land use or construction of new facilities that
 23 would result in population and housing changes.

24 Land uses and the associated population and housing conditions would not change in the areas that would
 25 make the water available for single-year water transfers. Water conservation, crop shifting, groundwater
 26 substitution, and reservoir re-operation to make the transferred water available would not change land
 27 uses because the land would continue to be used for agriculture and cultivation would continue in the
 28 same manner as without water transfers. Although crop idling would change the annual use of land during
 29 the water transfer period, over the long-term the land would continue to be used for agricultural purposes.
 30 Because land uses would not change in the areas that would make the water available for single-year

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1 water transfers, single-year water transfers would not result in increased population and housing on the
2 lands involved in the water transfers.

3 Single-year water transfers that occur within the Delta would not result in new or substantially more
4 severe significant adverse impacts on population and housing in the areas that provide or use the
5 transferred water due to construction activities because construction of infrastructure would not be
6 anticipated to occur in connection with single-year water transfers. As described in Section 4.1.1,
7 *Construction Activities and Water Transfers*, in this Addendum, single-year water transfers would not
8 result in construction of new facilities in areas that provide the transferred water because there is not
9 adequate time to construct the facilities following approval of the water transfer before actions must be
10 implemented to provide the transferred water. Single-year water transfers also would not result in
11 construction of new facilities or community growth in areas that use the transferred water because of the
12 uncertainty of water availability from year to year. Information presented to the Council by DWR and
13 SWRCB at the September 24, 2015 Council meeting indicated that the volume of water involved in cross-
14 Delta water transfers and the capacity to convey the transferred water in the SWP and CVP facilities
15 varies annually. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this
16 Addendum, it would be difficult for purchasers of the transferred water to make long-term development
17 decisions based on this intermittent and variable water supply. Therefore, there would be no effects on
18 population and housing associated with single-year water transfers in the areas that provide or use the
19 transferred water, and continued exemption of single-year water transfers from the covered action process
20 would not be a change from existing conditions.

21 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
22 substantially more severe significant adverse impacts on population and housing as compared to the
23 conclusions in the Delta Plan PEIR, because there would be no change in existing conditions, and single-
24 year water transfers would continue to be exempt from the definition of a covered action.

25 5.16 Public Services

26 The results of the public services impact analysis were presented in Chapter 17 of the Delta Plan PEIR
27 (Council 2013a).

28

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 17-1: Cause the need for new or physically altered governmental facilities to maintain acceptable service ratios, response times, or other performance objectives for fire protection and emergency medical services, police protection, schools, or libraries?	No	No	No

29

30 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
31 from the covered action process; therefore, no change from existing conditions would occur. The Delta
32 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a

1 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
2 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
3 subject to the covered action process.

4 **Impact 17-1:** In accordance with CEQA, the Council considered information concerning whether cross-
5 Delta and/or in-Delta water transfers could cause significant adverse changes in the operation and need
6 for government facilities or public services. Based upon information in the Delta Plan PEIR, information
7 presented to the Council, and results from recent water transfer CEQA and NEPA documents
8 (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar*
9 *Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not
10 result in new or substantially more severe significant adverse impacts related to changes in land use or
11 construction of new facilities that would result in changes in the need for use of government facilities or
12 public services such as police, fire, emergency medical, library, and school services.

13 There would be no need for new or physically altered governmental facilities or services because the land
14 use and associated population and infrastructure would not change in the areas that would make the water
15 available for single-year water transfers. Water conservation, crop shifting, groundwater substitution, and
16 reservoir re-operation to make the transferred water available would not change land uses because the
17 land would continue to be used for agriculture and cultivation would continue in the same manner as
18 without water transfers. Although crop idling would change the annual use of land during the water
19 transfer period, over the long-term the land would continue to be used for agricultural purposes. Because
20 land uses would not change in the areas that would make the water available for single-year water
21 transfers, there would not be an increase in the need for use of government facilities or public services
22 such as police, fire, emergency medical, library, and school services.

23 Single-year water transfers that occur within the Delta would not result in new or substantially more
24 severe significant adverse impacts on the need for use of government facilities or services in the areas that
25 provide or use the transferred water due to construction activities because construction of infrastructure
26 would not be anticipated to occur in connection with single-year water transfers. As described in Section
27 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, single-year water transfers would
28 not result in construction of new facilities in areas that provide the transferred water because there is not
29 adequate time to construct the facilities following approval of the water transfer before actions must be
30 implemented to provide the transferred water. Single-year water transfers also would not result in
31 construction of new facilities or community growth in areas that use the transferred water because of the
32 uncertainty of water availability from year to year. Information presented to the Council by DWR and
33 SWRCB at the September 24, 2015 Council meeting indicated that the volume of water involved in cross-
34 Delta water transfers and the capacity to convey the transferred water in the SWP and CVP facilities
35 varies annually. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this
36 Addendum, it would be difficult for purchasers of the transferred water to make long-term development
37 decisions based on this intermittent and variable water supply. Therefore, there would be no effects on
38 land uses and the associated need for government facilities or public services such as police, fire,
39 emergency medical, library, and school services associated with single-year water transfers in the areas
40 that provide or use the transferred water, and continued exemption of single-year water transfers from the
41 covered action process would not be a change from existing conditions.

42 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in changes in new or
43 substantially more severe significant adverse impacts on land uses and the associated need for
44 government facilities or public services such as police, fire, emergency medical, library, and school
45 services as compared to the conclusions in the Delta Plan PEIR, because there would be no change in
46 existing conditions, and single-year water transfers would continue to be exempt from the definition of a
47 covered action.

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 **5.17 Recreation**

2 The results of the recreation impact analysis were presented in Chapter 18 of the Delta Plan PEIR
3 (Council 2013a).

4

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 18-1: Impair, degrade, or eliminate recreation facilities and activities?	No	No	No
Impact 18-2: Increase the use of existing recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	No	No	No
Impact 18-3: Require the construction or expansion of recreation facilities which might have an adverse physical effect on the environment?	No	No	No

5

6 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
7 from the covered action process; therefore, no change from existing conditions would occur. The Delta
8 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
9 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
10 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
11 subject to the covered action process.

12 **Impacts 18-1 through 18-3:** In accordance with CEQA, the Council considered information concerning
13 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in
14 recreational opportunities. Based upon information in the Delta Plan PEIR, information presented to the
15 Council, and results from recent water transfer CEQA and NEPA documents (Reclamation and
16 SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar Programmatic*
17 *Analyses of Water Transfers*, of this Addendum, single-year water transfers would not result in new or
18 substantially more severe significant adverse impacts on recreational opportunities related to changes in
19 land use that would impair, degrade, or eliminate recreational facilities or require additional or expanded
20 recreational facilities.

21 Recreational facilities, the use of these facilities, and the need for additional or expanded recreational
22 facilities would not change in the areas that would make the water available for single-year water
23 transfers because over the long-term the land use and population would not change(see Section 5.5, *Land*
24 *Use and Planning*, and Section 5.15, *Population and Housing*, of this Addendum). Water conservation,
25 crop shifting, groundwater substitution, and reservoir re-operation to make the transferred water available
26 would not change land uses because the land would continue to be used for agriculture and cultivation
27 would continue in the same manner as without water transfers. Although crop idling would change the

1 annual use of land during the water transfer period, over the long-term the land would continue to be used
 2 for agricultural purposes. Because land uses would not change in the areas that would make the water
 3 available for single-year water transfers, the land would continue to be used for agricultural purposes and
 4 would not physically change existing recreational facilities, change or increase the use of recreational
 5 facilities, or require the construction of new or expanded recreational facilities.

6 Single-year water transfers that use reservoir re-operation methods also would not result in new or
 7 substantially more severe significant adverse impacts on recreational facilities or activities. Surface water
 8 elevations in the reservoirs may become higher in some months if the transferred water is being stored for
 9 release later in the year or during the next water year. However, the reservoirs would continue to be
 10 operated within the surface water elevation criteria established for flood management and drought
 11 conditions which would continue to support historic recreational opportunities. Therefore, single-year
 12 water transfers would not change recreational opportunities at reservoirs involved in reservoir re-
 13 operation methods for water transfers.

14 Single-year water transfers that occur within the Delta would not result in new or substantially more
 15 severe significant adverse impacts on recreational opportunities in the areas that provide or use the
 16 transferred water due to construction activities because construction of infrastructure would not be
 17 anticipated to occur in connection with single-year water transfers. As described in Section 4.1.1,
 18 *Construction Activities and Water Transfers*, in this Addendum, single-year water transfers also would
 19 not result in construction of new facilities in areas that provide the transferred water because there is not
 20 adequate time to construct the facilities following approval of the water transfer before actions must be
 21 implemented to provide the transferred water. Single-year water transfers also would not result in
 22 construction of new facilities or community growth in areas that use the transferred water because of the
 23 uncertainty of water availability from year to year. Information presented to the Council by DWR and
 24 SWRCB at the September 24, 2015 Council meeting indicated that the volume of water involved in cross-
 25 Delta water transfers and the capacity to convey the transferred water in the SWP and CVP facilities
 26 varies annually. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this
 27 Addendum, it would be difficult for purchasers of the transferred water to make long-term development
 28 decisions based on this intermittent and variable water supply. Therefore, there would be no effects to
 29 existing recreational facilities, use of recreational facilities, or changes to recreational facilities that would
 30 require the construction or expansion of recreational facilities associated with single-year water transfers
 31 in the areas that provide or use the transferred water, and continued exemption of single-year water
 32 transfers from the covered action process would not be a change from existing conditions.

33 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in changes in new or
 34 substantially more severe significant adverse impacts on recreational resources as compared to the
 35 conclusions in the Delta Plan PEIR, because there would be no change in existing conditions, and single-
 36 year water transfers would continue to be exempt from the definition of a covered action.

37

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 **5.18 Transportation, Traffic, and Circulation**

2 The results of the transportation, traffic, and circulation impact analysis were presented in Chapter 19 of
3 the Delta Plan PEIR (Council 2013a).

4

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 19-1: Cause construction- and operations-related conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation?	No	No	No
Impact 19-2: Cause potential increase in hazards related to a design feature?	No	No	No
Impact 19-3: Cause potential reduction in adequate emergency access?	No	No	No
Impact 19-4: Cause construction- and operations-related conflict with adopted policies, plans, or programs regarding bicycle or pedestrian facilities?	No	No	No

5

6 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
7 from the covered action process; therefore, no change from existing conditions would occur. The Delta
8 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
9 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
10 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
11 subject to the covered action process.

12 **Impacts 19-1 through 19-4:** In accordance with CEQA, the Council considered information concerning
13 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in
14 transportation, traffic, and circulation. Based upon information in the Delta Plan PEIR, information
15 presented to the Council, and results from recent water transfer CEQA and NEPA documents
16 (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar*
17 *Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not
18 result in new or substantially more severe significant adverse impacts on transportation, traffic, and
19 circulation due to changes in land use or construction of facilities that would conflict with applicable

1 transportation plans and policies, increase transportation hazards, interfere with or reduce emergency
2 access, or conflict with plans and policies for bicycle and pedestrian facilities.

3 Transportation conditions are not anticipated to change because single-year water transfers would not
4 result in changes to land use and population (see Section 5.5, *Land Use and Planning*, and Section 5.15,
5 *Population and Housing*, of this Addendum) or the construction of new infrastructure or facilities that
6 would conflict with transportation facilities or conflict with the transportation, traffic, and circulation
7 plans or policies. Water conservation, crop shifting, groundwater substitution, and reservoir re-operation
8 to make the transferred water available would not change land uses because the land would continue to be
9 used for agriculture and cultivation would continue in the same manner as without water transfers.
10 Although crop idling would change the annual use of land during the water transfer period, over the long-
11 term the land would continue to be used for agricultural purposes. Because land uses would not change in
12 the areas that would make the water available for single-year water transfers, the land would continue to
13 be used for agricultural purposes and would not result in changes to transportation facilities, traffic
14 patterns or vehicle use, and circulation patterns.

15 Single-year water transfers that occur within the Delta would not result in new or substantially more
16 severe significant adverse impacts on traffic, transportation, and circulation in the areas that provide or
17 use the transferred water due to construction activities because construction of infrastructure would not be
18 anticipated to occur in connection with single-year water transfers. As described in Section 4.1.1,
19 *Construction Activities and Water Transfers*, in this Addendum, single-year water transfers would not
20 result in construction of new facilities in areas that provide the transferred water because there is not
21 adequate time to construct the facilities following approval of the water transfer before actions must be
22 implemented to provide the transferred water. Information presented to the Council by DWR and
23 SWRCB at the September 24, 2015 Council meeting indicated that the volume of water involved in cross-
24 Delta water transfers and the capacity to convey the transferred water in the SWP and CVP facilities
25 varies annually. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this
26 Addendum, it would be difficult for purchasers of the transferred water to make long-term development
27 decisions based on this intermittent and variable water supply. Therefore, there would be no effects on
28 traffic, transportation, and circulation associated with single-year water transfers in the areas that provide
29 or use the transferred water, and continued exemption of single-year water transfers from the covered
30 action process would not be a change from existing conditions.

31 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
32 substantially more severe significant adverse impacts on traffic, transportation, and circulation as
33 compared to the conclusions in the Delta Plan PEIR, because there would be no change in existing
34 conditions, and single-year water transfers would continue to be exempt from the definition of a covered
35 action.

36

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 **5.19 Utilities and Service Systems**

2 The results of the utilities and service systems impact analysis were presented in Chapter 20 of the Delta
3 Plan PEIR (Council 2013a).

4

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 20-1: Require or result in the construction of new water treatment facilities or the expansion of existing facilities, the construction or operation of which would have significant environmental effects or require the procurement of additional water supply entitlements?	No	No	No
Impact 20-2: Require or result in the construction of new wastewater treatment facilities or the expansion of existing facilities, the construction or operation of which would have significant environmental effects?	No	No	No
Impact 20-3: Require or result in the construction of new stormwater drainage facilities or the expansion of existing facilities, the construction or operation of which would have significant environmental effects?	No	No	No
Impact 20-4: Generate solid waste that would exceed the permitted capacity of local landfills or cause conflicts with federal, state, and local statutes and regulations related to solid waste?	No	No	No

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 20-5: Require or result in the development of new electricity generating facilities or the expansion of existing facilities, the construction or operation of which would have significant environmental effects?	No	No	No
Impact 20-6: Create a public health hazard from utility disruption?	No	No	No

1

2 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
 3 from the covered action process; therefore, no change from existing conditions would occur. The Delta
 4 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
 5 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
 6 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
 7 subject to the covered action process.

8 **Impacts 20-1 through 20-6:** In accordance with CEQA, the Council considered information concerning
 9 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in utilities
 10 and service systems. Based upon information in the Delta Plan PEIR, information presented to the
 11 Council, and results from recent water transfer CEQA and NEPA documents (Reclamation and
 12 SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar Programmatic*
 13 *Analyses of Water Transfers*, of this Addendum, single-year water transfers would not result in new or
 14 substantially more severe significant adverse impacts on utilities and service systems due to changes in
 15 land use and construction of facilities that would increase the demand for utilities and service systems,
 16 including water treatment and distribution, wastewater treatment and disposal, stormwater collection and
 17 disposal, solid waste collection and disposal, and electricity generation and distribution. Single-year water
 18 transfers also would not result in a change in public health hazard from utility disruption because there
 19 would be no additional demands on the utilities and there would be no construction actions that could
 20 place existing facilities at risk.

21 The conditions and demands for utilities would not change in the areas that would make the water
 22 available for single-year water transfers because over the long-term the land use and population would not
 23 change (see Section 5.5, *Land Use and Planning*, and Section 5.15, *Population and Housing*, of this
 24 Addendum). Water conservation, crop shifting, groundwater substitution, and reservoir re-operation to
 25 make the transferred water available would not change land uses because the land would continue to be
 26 used for agriculture and cultivation would continue in the same manner as without water transfers.
 27 Although crop idling would change the annual use of land during the water transfer period, over the long-
 28 term the land would continue to be used for agricultural purposes. Because land uses would not change in
 29 the areas that would make the water available for single-year water transfers, over the long-term, the
 30 land would continue to be used for agricultural purposes and population would not increase. Therefore,
 31 there would be no risk to physical disruption of utilities services or increase in demand for these services.

32 As described in Section 5.2, *Water Resources*, of this Addendum, single-year water transfers would not
 33 result in new or substantially more severe significant adverse impacts on surface water supplies and

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 surface water quality in the areas that would make the water available for single-year water transfers or in
2 the Delta because most of the water transfers would be required to comply with existing water quality
3 criteria or not adversely affect existing beneficial uses through loss of water supplies or water quality
4 degradation, and therefore, would not result in need for additional water treatment. As described in
5 Section 4, *Overview of Water Transfers*, of this Addendum, water transfers that use SWP and/or CVP
6 conveyance facilities would be implemented to comply with flow and water quality criteria established by
7 the SWRCB, 2008 USFWS biological opinion, and 2009 NMFS biological opinion. Single-year water
8 transfers approved only by the SWRCB would be implemented in a manner that does not result in injury
9 to other legal water users, including protection of surface water supplies and surface water quality for
10 adopted beneficial uses (e.g. water supplies). The number of single-year water transfers that occur within
11 the Delta that do not need to analyze water quality conditions because they do not require approvals by
12 the SWRCB, DWR, or Reclamation would be minimal because most water transfers that occur within the
13 Delta require the use of SWP and/or CVP conveyance facilities. The single-year cross-Delta water
14 transfers that use SWP and/or CVP facilities would not result in new or substantially more severe
15 significant adverse impacts on water supplies or water quality in the Delta because the total volume of
16 transferred water across the Delta (single-year and long-term water transfers) is anticipated to continue to
17 be a minor amount of the water conveyed across the Delta for the SWP and CVP operations, as discussed
18 in Section 4.3, *Recent Cross-Delta Water Transfers*, in this Addendum. Therefore, effects due to single-
19 year water transfers on surface water supplies and surface water quality in the areas that provide
20 transferred water and in the Delta would be minimal and additional water treatment facilities would not be
21 needed, and continued exemption of single-year water transfers from the covered action process would
22 not be a change from existing conditions.

23 As described in Section 5.2, *Water Resources*, of this Addendum, based upon information in the Delta
24 Plan PEIR, information presented to the Council, and results from recent water transfer CEQA and NEPA
25 documents (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of*
26 *Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum, single-year water
27 transfers would not result in new or substantially more severe significant adverse impacts on groundwater
28 conditions. As discussed in recent water transfer CEQA and NEPA documents (see Section 5.1,
29 *Consideration of Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum),
30 changes in local or basin-wide groundwater conditions due to water transfers were determined to be less
31 than significant with implementation of mitigation measures currently included in approval criteria used
32 by DWR and Reclamation (Reclamation and SLDMWA 2014, 2015). As described in Section 4,
33 *Overview of Water Transfers*, of this Addendum, detailed analyses of potential groundwater conditions
34 and implementation of groundwater mitigation and monitoring plans if groundwater substitution would be
35 used for water transfers must be completed for water transfers that use SWP and/or CVP conveyance
36 facilities. Single-year water transfers approved only by the SWRCB would be implemented in a manner
37 that does not result in injury to other legal water users, including changes to groundwater conditions, and
38 also would require analysis of groundwater conditions if groundwater substitution methods would be
39 used. The number of single-year water transfers that occur within the Delta that do not need to analyze
40 water quality and the associated need for water treatment plant changes because they would not require
41 approvals by the SWRCB, DWR, or Reclamation would be minimal because most water transfers that
42 occur within the Delta would require use of SWP and CVP facilities. Therefore, effects due to single-year
43 water transfers on groundwater conditions and associated need for additional water treatment in the
44 Sacramento Valley or the Delta would be minimal and continued exemption of single-year water transfers
45 from the covered action process would not be a change from existing conditions.

46 Single-year water transfers that occur within the Delta would not result in new or substantially more
47 severe significant adverse impacts on utilities or services in the areas that provide or use the transferred
48 water due to construction activities because construction of infrastructure which could disrupt utilities
49 would not be anticipated to occur in connection with single-year water transfers. In addition, land use

1 changes are not anticipated due to single-year water transfers in the areas that provide or use the
 2 transferred water, therefore, the demand for utilities and services would not change. As described in
 3 Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, single-year water transfers
 4 would not result in construction of new facilities in areas that provide the transferred water because there
 5 is not adequate time to construct the facilities following approval of the water transfer before actions must
 6 be implemented to provide the transferred water. Single-year water transfers also would not result in
 7 construction of new facilities or community growth in areas that use the transferred water because of the
 8 uncertainty of water availability from year to year. Information presented to the Council by DWR and
 9 SWRCB at the September 24, 2015 Council meeting indicated that the volume of water involved in cross-
 10 Delta water transfers and the capacity to convey the transferred water in the SWP and CVP facilities
 11 varies annually. As described in Section 4.1.1, *Construction Activities and Water Transfers*, in this
 12 Addendum, it would be difficult for purchasers of the transferred water to make long-term development
 13 decisions based on this intermittent and variable water supply. Therefore, there would be no effects on
 14 land uses and associated increased demand for utilities or services associated with single-year water
 15 transfers in the areas that provide or use the transferred water, and continued exemption of single-year
 16 water transfers from the covered action process would not be a change from existing conditions.

17 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 18 substantially more severe significant adverse impacts on land uses and associated increased demand for
 19 utilities or services as compared to the conclusions in the Delta Plan PEIR, because there would be no
 20 change in existing conditions, and single-year water transfers would continue to be exempt from the
 21 definition of a covered action.

22 5.20 Climate Change and Greenhouse Gas Emissions

23 The results of the climate change conditions and greenhouse gas (GHG) emissions impact analysis were
 24 presented in Chapter 21 of the Delta Plan PEIR (Council 2013a).

25

Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 21-1: Cause construction and operations of projects could result in an increase in GHG emissions that may have a significant impact on the environment?	No	No	No
Impact 21-2: Cause construction and operations of projects could conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing emissions of GHGs?	No	No	No

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Environmental Analysis in the Delta Plan PEIR - Would the Project:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Impact 21-3: Cause conflict with operations of proposed facilities due to climate change and sea level rise?	No	No	No

1

2 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers
 3 from the covered action process; therefore, no change from existing conditions would occur. The Delta
 4 Plan determined that single-year water transfers occurring before December 31, 2016 would not have a
 5 significant adverse impact on the coequal goals. As a result of this determination, such single-year water
 6 transfers are not covered actions within the meaning of Water Code section 85057.5(a)(4) and are not
 7 subject to the covered action process.

8 **Impacts 21-1 through 21-3:** In accordance with CEQA, the Council considered information concerning
 9 whether cross-Delta and/or in-Delta water transfers could cause significant adverse changes in climate
 10 change conditions and GHG emissions. Based upon information in the Delta Plan PEIR, information
 11 presented to the Council, and results from recent water transfer CEQA and NEPA documents
 12 (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of Results of Similar*
 13 *Programmatic Analyses of Water Transfers*, of this Addendum, single-year water transfers would not
 14 result in new or substantially more severe significant adverse impacts that would cause construction or
 15 operation of facilities that would increase GHG emissions, conflict with plans and policies adopted to
 16 reduce GHG emissions, or result in conflicts with plans to manage under climate change and sea level rise
 17 related to changes in use of diesel or natural gas engines for groundwater pumping or changes in land uses
 18 that would result in construction of facilities.

19 Water transfers that require use of SWP and/or CVP conveyance facilities must submit documentation to
 20 DWR and/or Reclamation that verifies the use of electric-powered groundwater pumps for groundwater
 21 substitution, or verifies compliance with California Air Resources Board or local Air Pollution Control
 22 District regulations for diesel or natural gas-powered groundwater pumps. Most water transfers that occur
 23 within the Delta require the use of SWP and/or CVP conveyance facilities and therefore would not result
 24 in new facilities or new sources of GHG emissions. As discussed in recent water transfer CEQA and
 25 NEPA documents (see Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water*
 26 *Transfers*, of this Addendum), changes in climate change and GHG emissions due to groundwater
 27 substitution were determined to be less than significant with implementation of mitigation measures
 28 currently included in approval criteria used by DWR and Reclamation for water transfers (Reclamation
 29 and SLDMWA 2014, 2015). Therefore, effects due to single-year water transfers on climate change
 30 conditions and GHG emissions in areas that provide transferred water would be minimal and continued
 31 exemption of single-year water transfers from the covered action process would not be a change from
 32 existing conditions.

33 Single-year water transfers that occur within the Delta would not result in new or substantially more
 34 severe significant adverse impacts related to changes inland uses and associated climate change
 35 conditions and GHG emissions due to activities in the areas that provide or use the transferred water due
 36 to construction activities because construction of infrastructure would not be anticipated to occur in
 37 connection with single-year water transfers. As described in Section 4.1.1, *Construction Activities and*
 38 *Water Transfers*, in this Addendum, single-year water transfers would not result in construction of new
 39 facilities in areas that provide the transferred water because there is not adequate time to construct the

1 facilities following approval of the water transfer before actions must be implemented to provide the
 2 transferred water. Single-year water transfers also would not result in construction of new facilities or
 3 community growth in areas that use the transferred water because of the uncertainty of water availability
 4 from year to year. Information presented to the Council by DWR and SWRCB at the September 24, 2015
 5 Council meeting indicated that the volume of water involved in cross-Delta water transfers and the
 6 capacity to convey the transferred water in the SWP and CVP facilities varies annually. As described in
 7 Section 4.1.1, *Construction Activities and Water Transfers*, in this Addendum, it would be difficult for
 8 purchasers of the transferred water to make long-term development decisions which could change GHG
 9 emissions based on this intermittent and variable water supply. Therefore, there would be no effects on
 10 climate change conditions and GHG emissions associated with single-year water transfers in the areas that
 11 provide or use the transferred water, and continued exemption of single-year water transfers from the
 12 covered action process would not be a change from existing conditions.

13 **Summary:** Single-year cross-Delta and/or in-Delta water transfers would not result in new or
 14 substantially more severe significant adverse impacts on climate change conditions and GHG emissions
 15 as compared to the conclusions in the Delta Plan PEIR, because there would be no change in existing
 16 conditions, and single-year water transfers would continue to be exempt from the definition of a covered
 17 action.

18 5.21 Mandatory Findings of Significance

19

Environmental Analysis in the Delta Plan PEIR - Mandatory Findings of Significance:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Item 1: Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	No	No	No

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Environmental Analysis in the Delta Plan PEIR - Mandatory Findings of Significance:	Does the Proposed Project Result in New or Substantially More Severe Significant Impacts?	Are there Changed Circumstances Related to New Significant or Substantially More Severe Impacts?	Are there Additional Mitigation Measures that would Substantially Reduce Impacts?
Item 2: Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	No	No	No
Item 3: Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	No	No	No

1

2 **Item 1:** As described in Sections 5.2 through 5.20 of this Addendum, single-year cross-Delta and/or in-
 3 Delta water transfers would not cause long-term changes in environmental resources, including biological
 4 resources or cultural resources. Single-year water transfers that occur within the Delta would not result in
 5 new or substantially more severe significant adverse impacts on biological resources because most of the
 6 water transfers would be required to avoid substantial adverse effects on biological resources, as
 7 described in Section 5.3, *Biological Resources*, of this Addendum. Single-year water transfers would not
 8 result in changes in land use or construction of new facilities and associated changes in biological
 9 resources and cultural resources, including important examples of the major periods of California history
 10 or pre-history. Crop idling would change the annual use of land during the water transfer period; however,
 11 these changes would be similar to ongoing patterns of crop idling due to land management and responses
 12 to agricultural markets. Long-term land use would not be changed due to single-year water transfers.
 13 Therefore, there would be no effects on biological and cultural resources associated with single-year
 14 water transfers in the areas that provide or use the transferred water, and continued exemption of single-
 15 year water transfers from the covered action process would not be a change from existing conditions.

16 **Item 2:** The Council considered information concerning whether cross-Delta and/or in-Delta water
 17 transfers could cause significant adverse cumulative effects. Based upon information in the Delta Plan
 18 PEIR, information presented to the Council, and results from recent water transfer CEQA and NEPA
 19 documents (Reclamation and SLDMWA 2014, 2015) as described in Section 5.1, *Consideration of*
 20 *Results of Similar Programmatic Analyses of Water Transfers*, of this Addendum, single-year water
 21 transfers would not result in new or substantially more severe significant adverse impacts on cumulative
 22 effects related to changes in the environmental resources, including water supplies and biological
 23 resources. As described in Sections 5.2 through 5.20 of this Addendum, single-year water transfers would
 24 not cause long-term changes in environmental resources. Single-year water transfers that would occur
 25 within the Delta were considered in a cumulative impact analysis with past, present, and probable future
 26 projects as identified in Table 22-1 in the Delta Plan PEIR (Council 2013a) and other water transfer

1 projects including water transfers as described in the Long-Term Water Transfer EIS/EIR (Reclamation
2 and SLDMWA 2015).

3 As described in Sections 5.2 through 5.20 of this Addendum, single-year cross-Delta and/or in-Delta
4 water transfers would not result in changes in land use or construction of facilities that would result in
5 new or substantially more severe significant adverse impacts on incremental and cumulative impacts, and
6 continued exemption of single-year water transfers from the covered action process would not be a
7 change from existing conditions.

8 As described in Section 5.3, *Biological Resources*, of this Addendum, single-year cross-Delta and/or in-
9 Delta water transfers would not result in new or substantially more severe significant adverse impacts on
10 biological resources because most of the water transfers that would occur within the Delta would be
11 required to avoid substantial adverse effects on biological resources. Similarly, other projects, including
12 other water transfer programs, also would be required to comply with existing criteria established by the
13 State and federal government agencies to protect biological resources, including the 2008 USFWS and
14 2009 NMFS biological opinions. Therefore, single-year water transfers would not cause changes in
15 biological resources that would result in new or substantially more severe significant adverse impacts on
16 incremental and cumulative impacts, and continued exemption of single-year water transfers from the
17 covered action process would not be a change from existing conditions.

18 Cumulative effects also were considered with respect to the use of groundwater substitution to make
19 water available for single-year water transfers and groundwater conditions in the Sacramento Valley.
20 Overall groundwater use in the Sacramento Valley increased between 1989 and 2013 from approximately
21 1,700,000 acre-feet/year to over 2,500,000 acre-feet/year (DWR 2013, 2015). Groundwater substitution
22 was used for 6 of the 13 years between 2001 and 2013. In those 6 years, groundwater substitution
23 represented 5 percent or less of the total amount of groundwater pumped in the Sacramento Valley. As
24 described in Section 5.2, *Water Resources*, of this Addendum, based upon information in the Delta Plan
25 PEIR, information presented to the Council, information prepared by DWR (2013, 2015), and results
26 from recent water transfer CEQA and NEPA documents (Reclamation and SLDMWA 2014, 2015) as
27 described in Section 5.1, *Consideration of Results of Similar Programmatic Analyses of Water Transfers*,
28 of this Addendum, single-year water transfers would not result in new or substantially more severe
29 significant adverse impacts on groundwater conditions because single-year water transfers that use SWP
30 and/or CVP conveyance facilities should include detailed groundwater analyses and groundwater
31 mitigation and monitoring plans if groundwater substitution would be used. Single-year water transfers
32 approved only by the SWRCB would be implemented in a manner that does not result in injury to other
33 legal water users, including changes to groundwater conditions, and also would require analysis of
34 groundwater conditions if groundwater substitution methods would be used. The number of single-year
35 water transfers that occur within the Delta that do not need to analyze groundwater conditions because
36 they would not require approvals by the SWRCB, DWR, or Reclamation would be minimal because most
37 water transfers that occur within the Delta would require use of SWP and CVP facilities. Therefore,
38 single-year water transfers that occur within the Delta would not result in new or substantially more
39 severe significant adverse impacts on incremental and cumulative impacts, and continued exemption of
40 single-year water transfers from the covered action process would not be a change from existing
41 conditions.

42 Future climate change conditions are anticipated to increase the frequency and extent of dry periods in
43 California which could increase the demand for water transfers both upstream of the Delta and across the
44 Delta. Cumulative effects of additional long-term water transfers and continued use of single-year water
45 transfers could be similar to those analyzed in recent environmental documents that analyzed water
46 transfers (Reclamation and SLDMWA 2014, 2015). These documents identified potential cumulative
47 effects due to climate change which could result in a greater need for water transfers as well as less
48 surface water and groundwater supplies. These documents identified that water transfers would not result

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1 in adverse cumulative effects because most single-year water transfers and all long-term water transfers
 2 would be required to complete detailed analyses of surface water, groundwater, biological resources, and
 3 other environmental resources and develop appropriate mitigation measures and monitoring plans, as
 4 described in Sections 5.2 through 5.20 of this Addendum. There would be a minor number of single-year
 5 water transfers that occur within the Delta that do not need to analyze environmental conditions because
 6 they would not require approvals by the SWRCB, DWR, or Reclamation; however, these types of water
 7 transfers would be minimal because most water transfers that occur within the Delta would require use of
 8 SWP and/or CVP facilities which would require DWR and/or Reclamation approval. In general, water
 9 transfers that occur within the Delta would be limited by the ability to convey water across the Delta in
 10 the SWP and/or CVP conveyance facilities, as described in Section 4.2.3, *Department of Water Resources*
 11 *and Bureau of Reclamation Processes for Cross-Delta Water Transfers*, of this Addendum. The recently
 12 approved water transfer program developed by Reclamation and SLDMWA (Reclamation and SLDMWA
 13 2015) could result in limited capacity in the SWP and/or CVP conveyance facilities for future water
 14 transfers. These and other limitations on water transfers would result in the use of water transfers as only
 15 a small portion of the total water supply actions in California. Other water supply future options in
 16 California would include local surface water supplies, groundwater supplies, regional water supplies
 17 which involve long-term conveyance of water from the Sierra Nevada to portions of the San Francisco
 18 Bay Area and southern California, Colorado River water supplies for portions of southern California,
 19 recycled wastewater effluent and stormwater flows, desalination, and water supplies provided by the SWP
 20 and CVP. These types of projects would require separate environmental documentation to determine
 21 environmental effects of the future actions. Therefore, single-year water transfers would not cause
 22 changes in environmental resources that would result in new or substantially more severe significant
 23 adverse impacts on incremental and cumulative impacts, and continued exemption of single-year water
 24 transfers from the covered action process would not be a change from existing conditions.

25 **Item 3:** As described in Sections 5.2 through 5.20 of this Addendum, single-year cross-Delta and/or in-
 26 Delta water transfers would not cause long-term changes in environmental resources that affect human
 27 beings. Single-year water transfers would not result in changes in land use or construction of new
 28 facilities, or in changes to potentially related environmental resources including water supplies, flood risk,
 29 visual resources, air quality, climate change conditions, GHG emissions, cultural resources, geology and
 30 soils, paleontological resources, mineral resources, hazards, noise, population and housing, public
 31 services and utilities, recreation, or transportation. Therefore, there would be no effects on human beings
 32 associated with single-year water transfers in the areas that provide or use the transferred water, and
 33 continued exemption of single-year water transfers from the covered action process would not be a
 34 change from existing conditions.

35

Section 6 Responses to Comments on the Draft Addendum

The Draft Addendum was published on the Council’s website on May 12, 2016. Written comments on the Addendum were accepted from May 12, 2016 through June 13, 2016. The comments received during this period, along with written responses, are contained in this Section.

This section contains comment letters and emails received on the Draft Addendum, and the Delta Stewardship Council’s responses to significant environmental issues raised in those comments. Each letter or email and each individual comment within the letter or email have been given an abbreviation and number for the purpose of cross-referencing the response to the comment.

After review and evaluation of the comments, it was determined that some comments by different commenters were substantially similar in subject matter. In response to these frequently raised comments, “master responses” have been prepared to address such comments and to avoid repetition of responses and lengthy duplication of text. The text of each master response is provided in this section following the list of commenters (Table 1). These master responses are cross-referenced in the individual responses to comments.

Table 1 lists all of the parties who submitted comments on the Draft Addendum during the public review period. The commenting parties are organized into four categories: State agencies, local agencies, organizations, and individuals. The responses to all comments are presented in this section following the Master Responses.

Table 1 List of Commenters on the Draft Addendum

Commenter	Letter Abbreviation
State Agencies	
California Department of Water Resources	DWR
State Water Resources Control Board	SWRCB
Local Agencies	
Merced Irrigation District	MID
San Luis & Delta-Mendota Water Authority and Westlands Water District	SLDMWA/WWD
Organizations	
AquAlliance	AA
Local Agencies of the North Delta	LAND
Pacific Coast Federation of Fishermen’s Associations and Institute for Fisheries Resources	PCFFA/IFR
Restore the Delta	RTD
State Water Contractors	SWC
Individuals	
Janet McCleery	McCleery
Terry Spragg	Spragg

6.1 Master Responses

The master responses address the following general topics:

- **Master Response 1:** Relationship Between the Proposed Project and Other Processes.
- **Master Response 2:** Status of Delta Plan Litigation.
- **Master Response 3:** Potential Changes in Existing Conditions.

6.1.1 *Master Response 1: Relationship Between the Proposed Project and Other Processes*

This master response responds to comments pertaining to the relationship between the proposed project analyzed in this Addendum and regulatory processes related to cross-Delta water transfers using SWP and CVP water facilities. This master response also responds to comments pertaining to the relationship between the proposed project analyzed in this Addendum and recently completed or ongoing environmental analyses.

The Council has jurisdiction only over actions that occur in whole or in part in the Delta, as defined in the Delta Reform Act. Accordingly, the only single-year water transfers included in the description of the project in the Delta Plan PEIR and this Addendum are water transfers that would occur in whole or in part in the Delta or Suisun Marsh. The water transfers addressed in this Addendum only involve water sellers or buyers that are located in the Delta or Suisun Marsh, or users that rely upon Delta waters and water conveyance facilities in the Delta to transport the transferred water between water sellers and water purchasers. It is recognized that water transfers that occur in whole upstream of the Delta may affect the Delta resources; however, those activities would not be covered actions as defined in Water Code section 85057.5(a) because they do not occur in whole or in part in the Delta.

6.1.1.1 Relationship Between the Proposed Project and the DWR and Reclamation Water Transfer White Paper

As described in Section 4, *Overview of Water Transfers*, of this Addendum, water transfers that use SWP and/or CVP conveyance facilities are required to comply with the requirements of DWR and Reclamation, including compliance with provisions of the current USFWS and NMFS biological opinions.

DWR and Reclamation annually prepare a technical guidance document for single-year and longer-term water transfers that require approval by DWR and Reclamation, the *Draft Technical Information for Preparing Water Transfer Proposals (Water Transfer White Paper), Information for Parties Preparing Proposals for Water Transfers Requiring Department of Water Resources or Bureau of Reclamation Approval*. The most recent *Water Transfer White Paper* was prepared in 2015 (DWR and Reclamation 2015). Water transfers involving water delivered by the SWP or using SWP facilities must comply with the guidance in the current *Water Transfer White Paper*, as discussed in Section 4.2.3.1, *Department of Water Resources and Bureau of Reclamation Water Transfer White Paper Requirements*, in this Addendum.

In order for DWR and/or Reclamation to make a determination that the proposed transfer will not unreasonably impact environmental resources, the transfer proponent must evaluate potential environmental impacts of the transfer and incorporate measures that minimize the environmental impacts. In the 2015 *Water Transfer White Paper*, DWR and Reclamation described a series of recommended mitigation measures included in previously completed environmental documents. For example, it was DWR's and Reclamation's judgment that the conservation measures outlined in the *2014 Revised Environmental Assessment/Initial Study, 2014 San Luis & Delta-Mendota Water Authority Water*

1 *Transfers* (“Reclamation and SLDMWA 2014 document”) represent the most current and best scientific
 2 information on protective measures for the giant garter snake. Accordingly, DWR and Reclamation
 3 encourage transfer proponents to incorporate the conservation measures from the most recent biological
 4 opinion relevant to crop idling in their transfer proposals. The Reclamation and SLDMWA 2014
 5 document contains mitigation measures that address protections for movement corridors with aquatic
 6 species (such as Western Pond Turtle and Giant Garter Snake), including providing minimum water
 7 depths in major irrigation and drainage canals; identification of habitat and habitat protection measures
 8 such as minimum water depths in idled rice fields; education of maintenance personnel in methods to
 9 protect listed species; and minimizing idling acreage near known wintering areas that support high
 10 concentrations of waterfowl and shorebirds. Similarly, if subsidence monitoring is required to determine
 11 future adverse impacts due to groundwater substitution action, DWR and/or Reclamation would work
 12 with the transfer proponent to develop a mutually agreed upon subsidence monitoring program similar to
 13 Mitigation Measure GW-1 contained in the *Long-Term Water Transfer EIS/EIR* (Reclamation and
 14 SLDMWA 2015).

15 The current *Water Transfer White Paper* (DWR and Reclamation 2015) identifies mitigation measures
 16 presented in the *2014 Revised Environmental Assessment/Initial Study, 2014 San Luis & Delta-Mendota*
 17 *Water Authority Water Transfers* (Reclamation and SLDMWA 2014) or the *Long-Term Water Transfers*
 18 *Environmental Impact Statement/Environmental Impact Report, Final* (Reclamation and SLDMWA
 19 2015) as examples of the types of mitigation measures to be included in transfers that require approval by
 20 DWR and/or Reclamation. This Addendum describes the types of mitigation measures that DWR and
 21 Reclamation would consider during their review of applications for single-year cross-Delta water
 22 transfers that would use SWP and CVP facilities as described in the current *Water Transfer White Paper*
 23 (DWR and Reclamation 2015).

24 **6.1.1.2 Relationship Between the Proposed Project and the USFWS and NMFS Biological**
 25 **Opinions**

26 As described in Section 4.2.3, *Department of Water Resources and Bureau of Reclamation Processes for*
 27 *Cross-Delta Water Transfers*,

28 DWR and Reclamation are required to comply with the 2008 USFWS and 2009 NMFS biological
 29 opinions criteria for all water conveyed through the SWP and CVP Delta facilities, including water
 30 transfers. The biological opinions address effects under the ESA related to conveyance of cross-Delta
 31 water transfers from July through September and limit the total amount of water transferred through SWP
 32 and CVP facilities as shown below (Reclamation 2008; USFWS 2008; NMFS 2009).

Water Year Classification	Maximum Water Transfer Amount through SWP and CVP Delta Facilities
Critical Year	Up to 600,000 acre-feet/year – July 1 through September 30
Dry Year following a Critical Year	Up to 600,000 acre-feet/year – July 1 through September 30
Dry Year following a Dry Year	Up to 600,000 acre-feet/year – July 1 through September 30
All Other Water Years	Up to 360,000 acre-feet/year – July 1 through September 30

33

34 The 2008 USFWS and 2009 NMFS biological opinions evaluated the effects of the long-term
 35 coordinated operation of the SWP and CVP, including these annual limitations for water transfers (see
 36 pages 128 and 129 in the 2008 USFWS biological opinion; and see pages 123 through 127 of Appendix 1
 37 of the 2009 NMFS biological opinion).

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1 If a water transfer proposal included conveyance during October through June or resulted in transferred
 2 water volumes greater than addressed in the 2008 USFWS and 2009 NMFS biological opinions, DWR
 3 and/or Reclamation would be required to obtain separate approvals from USFWS and NMFS under ESA
 4 Sections 7 or 10.

5 Water diversion facilities that are owned and operated by other Delta water diverters, including Contra
 6 Costa Water District, would be required to comply with the requirements of separate biological opinions
 7 issued by the USFWS and NMFS.

8 **6.1.1.3 Relationship Between the Proposed Project and Other Environmental Documents**
 9 **Related to Water Transfer Programs**

10 Comments received on this Addendum included comments related to references to the *2014 Revised*
 11 *Environmental Assessment/Initial Study, 2014 San Luis & Delta-Mendota Water Authority Water*
 12 *Transfers* (Reclamation and SLDMWA 2014) and the *Long-Term Water Transfers Environmental Impact*
 13 *Statement/Environmental Impact Report, Final* (Reclamation and SLDMWA 2015), as summarized
 14 below.

- 15 • *Environmental Assessment/Initial Study, 2014 San Luis & Delta-Mendota Water Authority*
 16 *Water Transfers*, (Reclamation and SLDMWA 2014).
 - 17 ○ The EA/IS analyzes single-year water transfers of up to 175,226 acre-feet
 18 from portions of the Sacramento and San Joaquin valleys to the San
 19 Francisco Bay Area and San Joaquin Valley in 2014. A combination of crop
 20 idling, crop shifting, and groundwater substitution methods were assumed to
 21 be available to provide the transferred water.
 - 22 ○ The water transfers evaluated in this document have been completed.
- 23 • *Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report,*
 24 *Final* (Reclamation and SLDMWA 2015).
 - 25 ○ The Long-Term Water Transfer EIS/EIR analyzes annual water transfers of
 26 up to 511,094 acre-feet/year from the Sacramento Valley to the San
 27 Francisco Bay Area and San Joaquin Valley between 2015 through 2024. A
 28 combination of crop idling, crop shifting, groundwater substitution, reservoir
 29 re-operation, and water conservation methods were assumed to provide the
 30 transferred water.
 - 31 ○ It is recognized that implementation of the annual maximum potential
 32 amount of water transfers of 511,094 acre-feet could not occur as cross-Delta
 33 water transfers using SWP and/or CVP facilities in most years based upon
 34 the limitations of the USFWS and NMFS biological opinions. In drier years,
 35 implementation of the annual maximum potential amount of water transfers
 36 of 511,094 acre-feet would only allow for an additional 88,906 acre-feet of
 37 water transfers using SWP and/or CVP facilities.
 - 38 ○ It is recognized that litigation related to the *Long-Term Water Transfers*
 39 *Environmental Impact Statement/Environmental Impact Report, Final* has
 40 been filed in the United States District Court of the Eastern District of
 41 California by AquAlliance, California Sportfishing Protection Alliance,
 42 Central Delta Water Agency, South Delta Water Agency, and Local
 43 Agencies of the North Delta against the United States Department of the
 44 Interior, Bureau of Reclamation, and San Luis & Delta-Mendota Water
 45 Authority.

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1 This Addendum identifies that single-year cross-Delta water transfers could occur by other agencies;
 2 however, the Council would not be the lead agency for any of these actions. Because each water transfer
 3 is unique, as described in the introduction to Section 5, this Addendum does not attempt to speculate
 4 regarding possible incremental effects of each transfer. Rather, this Addendum analyzes the reasonably
 5 foreseeable effects of single-year cross-Delta water transfers by reviewing recently completed
 6 environmental documents. The Council cannot predict the details of the final approvals of cross-Delta
 7 water transfers by DWR, Reclamation, SWRCB, or participating water transfer agencies that would
 8 become CEQA lead agencies for the water transfers. It would be speculative to analyze the effects of
 9 specific cross-Delta water transfers in the absence of project-specific information; therefore, this
 10 Addendum discloses the results of environmental documents prepared for similar water transfers. This
 11 Addendum did not “tier” from these environmental documents but uses them as sources of information
 12 and substantial evidence to support this Addendum’s conclusions.

13 The *2014 Revised Environmental Assessment/Initial Study, 2014 San Luis & Delta-Mendota Water*
 14 *Authority Water Transfers* (Reclamation and SLDMWA 2014) and the *Long-Term Water Transfers*
 15 *Environmental Impact Statement/Environmental Impact Report, Final* (Reclamation and SLDMWA
 16 2015) were reviewed in preparing this Addendum and compared to earlier environmental documents
 17 because the 2014 and 2015 documents contained more extensive mitigation measures, evaluated effects
 18 within larger geographic study areas, and contained more recent descriptions of existing conditions. Some
 19 of the comments on this Addendum pertain to earlier comments submitted on environmental documents
 20 prepared for water transfer programs that occurred in 2010, 2011, and 2013 and have since been
 21 completed.

22 Comments on this Addendum that relate to comments submitted on earlier environmental documents
 23 related to water transfers, other than this Addendum, are not comments on the proposed project or this
 24 Addendum.

25 **6.1.1.4 Relationship Between the Proposed Project and Other Environmental Documents**
 26 **Related to Bay-Delta Water Conservation Plan and California WaterFix**

27 Comments received during the public review of this Addendum included comments related to separate
 28 comments submitted on draft environmental documents being prepared for the Bay-Delta Water
 29 Conservation Plan (BDCP) and the California WaterFix program. These comments are not comments on
 30 the regulatory amendment or this Addendum. The alternatives considered in the Draft BDCP
 31 Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) and the Recirculated Draft
 32 EIR/Supplemental Draft EIS which addressed the California WaterFix alternatives do not include specific
 33 water transfers. The environmental documents currently being prepared for the BDCP and California
 34 WaterFix discuss that water transfers would continue in a similar manner as historic transfers and in
 35 accordance with State and Federal laws and regulations; and acknowledge that the use of water transfers
 36 between agencies could increase in the future as SWP, CVP, and other surface water supplies are reduced
 37 due to climate change, sea level rise, and population growth. Because specific agreements have not been
 38 identified for water transfers and other non-project voluntary water market transactions, the
 39 environmental documents currently being prepared for the BDCP and California WaterFix do not include
 40 analyses of water transfers that would be highly speculative and describe how future water transfers using
 41 the proposed facilities in the alternatives would only convey water transfers in accordance with the
 42 limitations of the USFWS and NMFS biological opinions and criteria of DWR and/or Reclamation, such
 43 as those included in the current *Water Transfer White Paper* limitations.

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1 **6.1.2 Master Response 2: Status of Delta Plan Litigation**

2 In May and June 2013, seven lawsuits were filed challenging the Delta Plan and the Delta Plan PEIR.²
 3 These lawsuits were coordinated in Sacramento County Superior Court on October 1, 2013 as the Delta
 4 Stewardship Council Cases (Judicial Proceeding No. 4758). On May 18, 2016, the Court issued a Ruling
 5 on Submitted Matter: Petitions for Writ of Mandate, Bifurcated Proceeding on Statutory Challenges.
 6 That ruling, as clarified by the Court in a July 11, 2016 Order Granting in Part and Denying in Part
 7 Motions for Clarification of Court’s May 18, 2016 Ruling, addressed the statutory claims and found that
 8 the Delta Plan was invalid and directed the Council to set it aside until the Council revises the Delta Plan
 9 and any applicable regulations to:

- 10 • Include quantified or otherwise measureable targets associated with achieving reduced Delta
- 11 Reliance, reduced environmental harm from invasive species restoring more natural flows,
- 12 and increased water supply reliability, in accordance with the Delta Reform Act.
- 13 • Provide a flow policy that includes “quantified or otherwise measurable targets.
- 14 • Promote options for water conveyance and storage systems.

15 The ruling and associated clarification found, as a result, that there is no longer a project for which to
 16 conduct a CEQA analysis and review.

17 With regard to the CEQA claims, the court made modifications to its June 24, 2016 Tentative Ruling and
 18 Minute Order on Motions for Clarification and ordered the parties to include the following in their
 19 proposed Judgments: “As stipulated by the Parties, the court has not resolved any claims pursuant to
 20 [CEQA] stated in the pleadings of this action.” Accordingly, the Court has not ruled on any of the Parties’
 21 CEQA claims. In addition, the Court ordered the parties to include in their proposed Judgments a
 22 requirement that the Council adopt new CEQA findings and recertify the Delta Plan PEIR “to the extent
 23 the Council relies on the 2013 Delta PEIR in the future.”

24 The Council filed Notices of Appeal on August 23, 2016.

25 **6.1.3 Master Response 3: Potential Changes in Existing Conditions**

26 This master response responds to comments pertaining to the description of existing conditions presented
 27 in the Delta Plan PEIR, and use of those conditions as the existing conditions in this Addendum.

28 The Delta Plan determined that single-year cross-Delta and/or in-Delta water transfers occurring before
 29 December 31, 2016 would not have a significant adverse impact on the coequal goals. As a result of this
 30 determination, single-year water transfers are not covered actions within the meaning of Water Code
 31 section 85057.5(a)(4) and transfer proponents are not required to certify consistency with the Delta Plan.
 32 The existing conditions also assumes that single-year cross-Delta and/or in-Delta water transfers are
 33 exempt from the covered action process. The Proposed Project would continue to exempt single-year
 34 cross-Delta and/or in-Delta water transfers from the covered action process; therefore, no change from
 35 existing conditions would occur.

² San Luis & Delta-Mendota Water Authority v. Delta Stewardship Council (Sacramento County Superior Court, Case No. 34-2013-80001500)
 State Water Contractors, et al. v. Delta Stewardship Council (Sacramento County Superior Court, Case No. 34-2013-80001530)
 North Coast Rivers Alliance, et al. v. Delta Stewardship Council (Sacramento County Superior Court, Case No. 34-2013-80001534)
 California Water Impact Network, et al. v. Delta Stewardship Council (San Francisco County Superior Court, Case No. CPF13513047)
 Central Delta Water Agency, et al. v. Delta Stewardship Council (San Francisco County Superior Court, Case No. CPF13513048);
 Save the Delta Alliance v. Delta Stewardship Council (San Francisco County Superior Court, Case No. CPF13513049); City of
 Stockton v. Delta Stewardship Council (San Joaquin County Superior Court, Case No. 39201300298188 CUWMSTK)

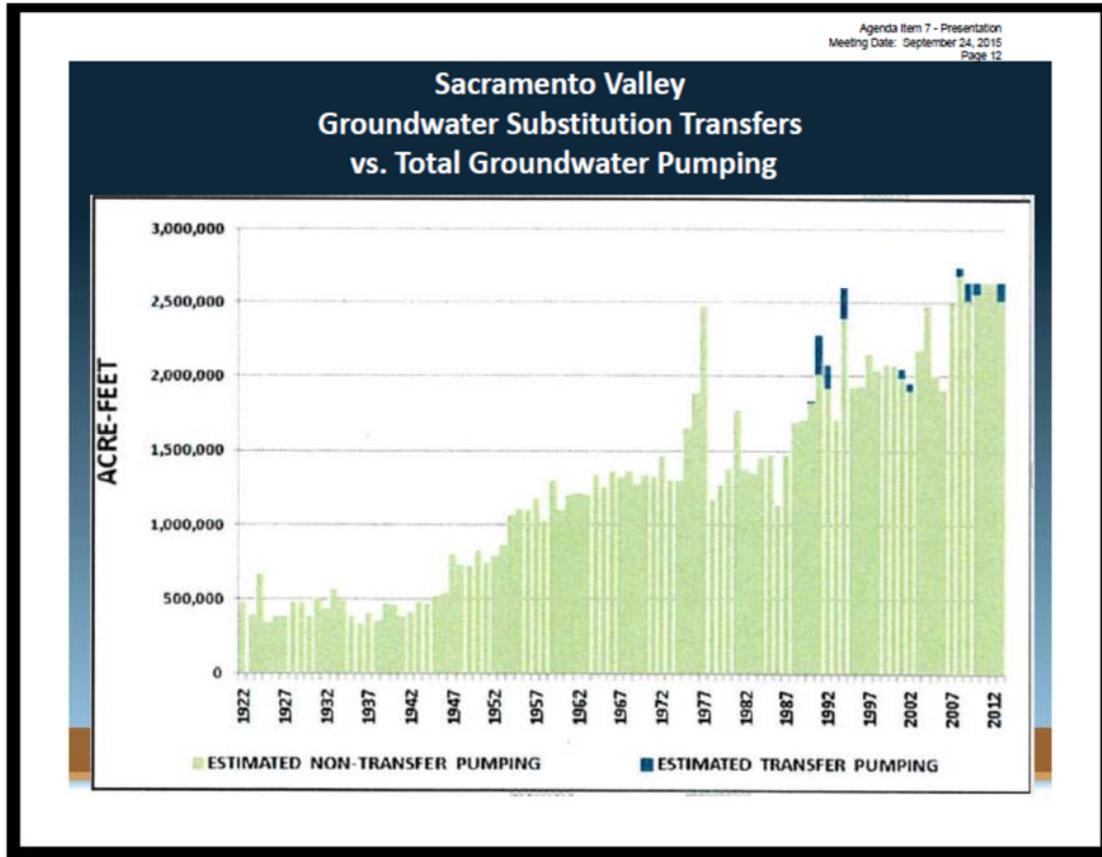
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1 The 2013 Delta Plan PEIR describes the existing conditions that occurred approximately 3 to 4 years prior
 2 to the current conditions in the study area, which consists of 49 of the 58 counties in California. Physical
 3 resource conditions continue to change due to population growth in accordance with adopted general
 4 plans as evaluated in EIRs prepared by cities and counties, including conditions related to land use, flood
 5 risk to those land uses, geology and soils, mineral resources, cultural resources, paleontological resources,
 6 mineral resources, hazards and hazardous wastes, noise, population, housing, public services, recreation,
 7 transportation, utilities, and public services. Population growth in California between 2013 and 2016 was
 8 approximately 1 percent/year (California Department of Finance 2016). This growth rate is within the
 9 range of growth conditions projected for the current general plans and analyzed in the general plan EIRs.
 10 Therefore, the land-based existing conditions in the Delta Plan PEIR continue to be appropriate for
 11 assumptions under this Addendum. Furthermore, the Proposed Project will not result in a change in
 12 existing physical conditions.

13 Several comments received on the Addendum discussed changes in existing conditions related to water
 14 resources that occurred in the past 3 to 4 years. These years represent some of the most severe drought
 15 years since the CVP began operating in the early 1950s. During this recent drought, surface water
 16 supplies provided by the SWP, CVP, and other water rights holders were reduced and the use of
 17 groundwater increased, as occurred in the 1976-1977 and 1987-1992 droughts. In addition, surface water
 18 flows in the Central Valley streams and rivers declined during the recent drought, as occurred in earlier
 19 droughts. This Addendum references the slide presentation by DWR at the Council meeting on September
 20 24, 2015. Slide Number 12 presented to the Council, which is reproduced below, is a graph showing that
 21 groundwater withdrawals in the Sacramento Valley have increased substantially over the past 60 years,
 22 with temporary spikes in groundwater pumping during the two previous droughts. This graph also shows
 23 that groundwater use began to increase prior to the publication of the Delta Plan PEIR; however, the
 24 amount of groundwater withdrawals associated with groundwater substitution transfer methods had
 25 actually declined between 1995 and 2012, as shown in the following graph. The values shown in this
 26 graph for groundwater withdrawal volumes associated with water transfers using groundwater
 27 substitution are consistent with similar water transfers during the past 2 years. The DWR presentation at
 28 the September 24, 2015 Council meeting (DWR 2015a), discussed in other portions of this Addendum,
 29 indicated that groundwater withdrawal volumes associated with water transfers using groundwater
 30 substitution for cross-Delta water transfers were 114,413 and 82,677 acre-feet/year in 2014 and 2015,
 31 respectively, which are similar to the 2012 values shown in the following graph (which are similar to
 32 conditions during preparation of the Delta Plan PEIR). Therefore, the water-based existing conditions
 33 described in the Delta Plan PEIR continue to be appropriate assumptions for purposes of evaluating the
 34 Proposed Project.

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3 Several comments received on the Addendum discussed changes in existing conditions related to aquatic
4 biological resources that occurred in the past 3 to 4 years. These years were extremely critical drought
5 years since portions of the CVP were initially operated. During this recent drought, biological resources
6 associated with waterways in the Delta watershed became stressed due to changes in surface water flows
7 and reduced snowpack that reduced the volume of cold water available to be released from SWP and CVP
8 reservoirs. The changes to listed aquatic resources species that occurred during the past 3 to 4 years was
9 monitored by NMFS and USFWS, in accordance with the current biological opinions. The biological
10 opinions were developed using results of a hydrologic model developed by DWR and Reclamation
11 (CalSim II) which projects hydrologic conditions based upon 82-years of historic hydrology. This 82-year
12 period includes numerous drought periods, including 1927-1934, 1976-1977, and 1987-1992. Until any
13 future re-consultation processes are complete, DWR and Reclamation are required to operate the SWP
14 and CVP, respectively, in accordance with the existing biological opinions. If the conditions of the listed
15 species populations are not consistent with the assumptions and findings of the biological conditions, it is
16 the responsibility of NMFS and USFWS to consider the need for re-consultation. If the operations of the
17 SWP and CVP are different than assumptions consulted on by NMFS and USFWS during development of
18 the biological opinions, it is responsibility of NMFS and USFWS to consider the need for re-consultation.
19 For example, during the drought years of 2014 and 2015, DWR and Reclamation submitted annual
20 applications to the SWRCB for changes in operations in accordance with SWRCB Decision 1641 under
21 annual Temporary Urgency Petitions. The changes in operations were reviewed by NMFS and USFWS
22 and determined to be in compliance with the existing biological opinions described in the existing
23 conditions of the Delta Plan PEIR. Therefore, the aquatic resources existing conditions in the Delta Plan
24 PEIR continue to be appropriate for the recent years and the assumptions under this Addendum.

1 **6.2** **Comments and Responses to Comments**
2 **6.2.1** ***State Agency: Department of Water Resources (DWR)***
3

State of California

California Natural Resources Agency

M e m o r a n d u m

Date: **JUN 13 2016**

To: Anthony Navasero, Senior Engineer
 Delta Stewardship Council
 980 Ninth Street, Suite 1500
 Sacramento, CA 95814

From: Nancy Quan, Chief 
 Program Development and Water Supply and Transfer Branch
 State Water Project Analysis Office
 Department of Water Resources

Subject: Department of Water Resources Comments on the Draft Addendum to the Delta Plan
 Programmatic Environmental Impact Report, May 2016

The Department of Water Resources (DWR) has reviewed the Delta Stewardship Council Draft Addendum to the Delta Plan PEIR (Addendum) dated May 2016 and has the following comments to correct and clarify some of the information in the Addendum:

DWR
1

Since Governor Edmund G. Brown Jr. issued a Proclamation of a Drought State of Emergency on January 17, 2014, staff from DWR and the State Water Resources Control Board have been working together to expedite and streamline the processing of water transfer proposals by coordinating with relevant federal agencies, State and federal fishery agencies, and water districts and sharing information to help resolve outstanding issues whenever possible. The DSC document describes our roles and responsibilities correctly.

General comments:

1. The term multi-year transfers is used to refer to both multiple single year transfers, such as the references to Reclamation's Long-Term NEPA document, as well as individual multi-year transfers such as the Yuba Accord. We suggest clarifying the language to avoid confusion as to what type of transfer is being referenced.
2. Section 4.1.1 contains a discussion of construction activities related to water transfer actions in the area providing the water, receiving the water or related to the use of the water. The section also includes a discussion of multi-year transfers and a potential for community growth. The Addendum is focused only on single year transfers. Multi-year transfers are not proposed to be included in the Delta Plan exemption. Transfers of a duration of one year or less cannot be used to support community growth since transfers are implemented during dry conditions to supplement local supplies to meet existing demand and the transfer supply is not reliable. In addition, it is typically not feasible to construct facilities to make water available solely for a temporary transfer.

DWR
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DWR
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ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

Anthony Navasero, Senior Engineer
JUN 13 2016
Page 2

Specific comments:

1. Page 17, Lines 29-30: Suggest the sentence beginning "Therefore, the amount of water..." be revised to: "Therefore, the reduction in the evapotranspiration of applied water or ETAW (the portion of the applied water that is evaporated from the soil and plant surfaces and actually used by the crops) can be transferred." DWR
4
2. Page 18, line 21: Suggest changing irrigated pasture to irrigated alfalfa. Pasture is not an allowable crop for crop idling unless a proposal-specific measurement and monitoring program is in place.
3. Page 18, lines 29-31. The streamflow depletion factor includes more than just the amount of water that might be drawn from the surface water to the aquifer. Suggest revising the sentence to state: "The streamflow depletion factor reflects the reduction in streamflow due to the additional pumping associated with the groundwater substitution transfer." DWR
5
4. Page 19, lines 10-11: Generally, reservoir re-operation is not implemented in coordination with another method to make transfer water available. It may be used in coordination with another method; however it is typically done as the sole method to make transfer water available. DWR
6
5. Page 19, Reservoir Storage Release: Suggest adding a bullet on refill criteria which is required by DWR and Reclamation for reservoir re-operation transfers. DWR
7
6. Page 21, Line 18: Suggest modifying the first sentence to state that "The California Water Code requires that transfers may not cause injury..." The beginning of the sentence as currently written makes it appear that there are types of water rights which may be transferred without complying with the no injury rule. DWR
8
7. Page 22, line 20. Riparian rights should be deleted from the sentence. This section discusses the process DWR1 ly with Water Code Section 1810. Riparian rights may only be used for ins DWR ansfers, therefore they do not require the use of another agency's conveyance facilities and WC Section 1810 is not applicable. 9
8. Page 23, lines 14-20: Suggest the paragraph be revised to state: "DWR and Reclamation are required to comply with the water quality and flow criteria established by the SWRCB and the terms of their agreements with agencies in the Delta. The water quality and flow criteria can limit the total amount of water conveyed across the Delta by DWR and Reclamation during some periods of the year. Export of water from the Delta can draw more saline water into the interior Delta. DWR and Reclamation assess a Delta carriage water loss to through Delta water transfers. Carriage water is generally defined as the additional amount of water that must remain in the Sacramento or San Joaquin River for Delta outflow to compensate for the additional export made on behalf of a transfer in order to assure compliance with the water quality requirements of the State Water Project and Central Valley Project." DWR
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DWR 9045 (Rev. 1/09)

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ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

Anthony Navasero, Senior Engineer

JUN 13 2016
Page 3

- 9. Page 23, lines 33-36. The Water Transfer White Paper provides information for water transfer proponents requesting the use of SWP or CVP conveyance facilities, but it is not regulatory. Suggest the first sentence be revised to state: "Each year DWR and Reclamation update the Water Transfer White Paper, which provides information to guide the development of proposals to transfer water through SWP or CVP facilities including methods to calculate new water (ETAW for different crops) and the minimum streamflow depletion factor for groundwater substitution transfers." DWR
11

- 10. Page 24, lines 12-13: Revise to state: "Water Transfers based on rice straw decomposition." There are other potential options for making water available from rice straw decomposition. Currently DWR and Reclamation do not accept proposals to transfer water based on changes in rice straw decomposition regardless of the method. DWR
12

- 11. Pages 24 and 25, Description of mitigation measures if idled crop acreage provides habitat for Giant Garter Snake (GGS): Suggest deleting the measures and revise this section to more closely follow the language in the White Paper related to potential conservation measures for GGS. The White Paper does not include the measures listed in the Draft PEIR. DWR
13

- 12. Pages 25 and 26, Subsidence monitoring: Similar to the comment above, suggest deleting the list of measures extracted from the Reclamation long-term document since they are not actually included in the White Paper. The listed measures would not be appropriate for every transfer, only those where there was the potential for subsidence or where subsidence had been previously observed. DWR
14

- 13. Page 27, lines 33-34: Delete the reference to the CVPIA and the Monterey Amendment. The Monterey Amendment has no relationship to single year transfers. Inter-basin transfers occurred well before either was implemented, as early as the 1980's. The first large scale transfers were the 1990's Drought Water Banks. DWR
15

If you have any questions about our comments, please contact me at (916) 653-0190 or Maureen Sergent of my staff at (916) 653-9467.

Cc: Amanda Montgomery, Chief
Permitting and Licensing Section
Division of Water Rights

Patricia D. Fernandez
Senior Water Resources Engineer
Division of Water Rights

DWR 9045 (Rev. 1/09)

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2
3

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

- 1 **State Agency: Department of Water Resources (DWR)**
- 2 **Response to Comment DWR 1** – Comment noted.
- 3 **Response to Comment DWR 2** - In response to this comment, please see text change(s) in
4 the Final Addendum. The requested change does not affect the evaluation of impacts and
5 determination of significance.
- 6 **Response to Comment DWR 3** - In response to this comment, please see text change(s) in
7 the Final Addendum. The requested change does not affect the evaluation of impacts and
8 determination of significance.
- 9 **Response to Comment DWR 4** - In response to this comment, please see text change(s) in
10 the Final Addendum. The requested change does not affect the evaluation of impacts and
11 determination of significance.
- 12 **Response to Comment DWR 5** - In response to this comment, please see text change(s) in
13 the Final Addendum. The requested change does not affect the evaluation of impacts and
14 determination of significance.
- 15 **Response to Comment DWR 6** - In response to this comment, please see text change(s) in
16 the Final Addendum. The requested change does not affect the evaluation of impacts and
17 determination of significance.
- 18 **Response to Comment DWR 7** - In response to this comment, please see text change(s) in
19 the Final Addendum. The requested change does not affect the evaluation of impacts and
20 determination of significance.
- 21 **Response to Comment DWR 8** - In response to this comment, please see text change(s) in
22 the Final Addendum. The requested change does not affect the evaluation of impacts and
23 determination of significance.
- 24 **Response to Comment DWR 9** - In response to this comment, please see text change(s) in
25 the Final Addendum. The requested change does not affect the evaluation of impacts and
26 determination of significance.
- 27 **Response to Comment DWR 10** - In response to this comment, please see text change(s) in
28 the Final Addendum. The requested change does not affect the evaluation of impacts and
29 determination of significance.
- 30 **Response to Comment DWR 11** - In response to this comment, please see text change(s) in
31 the Final Addendum. The requested change does not affect the evaluation of impacts and
32 determination of significance.
- 33 **Response to Comment DWR 12** - In response to this comment, please see text change(s) in
34 the Final Addendum. The requested change does not affect the evaluation of impacts and
35 determination of significance.
- 36 **Response to Comment DWR 13** - In response to this comment, please see text change(s) in
37 the Final Addendum. The requested change does not affect the evaluation of impacts and
38 determination of significance.
- 39 **Response to Comment DWR 14** - In response to this comment, please see text change(s) in
40 the Final Addendum. The requested change does not affect the evaluation of impacts and
41 determination of significance.

1 **Response to Comment DWR 15** - In response to this comment, please see text change(s) in
2 the Final Addendum. The requested change does not affect the evaluation of impacts and
3 determination of significance.

4

1 **6.2.2** *State Agency: State Water Resources Control Board (SWRCB)*



State Water Resources Control Board

JUN 13 2016

Anthony Navasero, Senior Engineer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Dear Mr. Navasero:

STATE WATER BOARD COMMENTS ON THE DRAFT ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

Thank you for the opportunity to review the Delta Stewardship Council (DSC) Draft Addendum to the Delta Plan Programmatic Environmental Impact Report (PEIR). We note that the 30-day public review and comment period ends on June 13, 2016. The State Water Board Division of Water Rights staff have reviewed the DSC Draft Addendum to the Delta Plan PEIR (Addendum) dated May 2016 and we have the following comments.

SWRCB
1

The State Water Board's role in the water transfer process is accurately described. We continue to work in coordination with the Department of Water Resources, the United States Bureau of Reclamation, and State and federal fishery agencies to expedite and improve the review process for temporary water transfers.

Our focus in the Addendum was on Section 4 Overview of Water Transfers. Our main comments are that the incorrect sections of the Water Code are referred to in a couple of locations. Water Code sections 1702 and 1703 apply to Change of Point of Diversion, Place of Use, or Purpose of Use not related to transfers of water. Water Code sections 1725 et al. apply to Change in Point of Diversion, Place of Use, or Purpose of Use Involving the Transfer of Water for temporary water transfers. We recommend referring to the Water Code sections involving temporary transfers of water as appropriate in Section 4.2.1.2 State Water Resources Control Board Process for Water Transfers per the comments below.

SWRCB
2

Page 21, Line 41: Add "involving the transfer of water" after "diversion of the water right".

SWRCB
3

Page 21, Line 42: Replace the reference to Water Code section 1703 with Water Code section 1726.

SWRCB
4

Page 21, Line 43: Replace the reference to Water Code section 1702 with Water Code section 1725.

SWRCB
5

When referring to the finding in Water Code sections 1725 et al. that "water transfers would not injure any legal user of water" change to "water transfers would not injure any legal user of the water". The word "the" is added to indicate the amount of the water involved in the transfer.

SWRCB
6

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov



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ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

Anthony Navasero, Senior Engineer
Delta Stewardship Council

- 2 -

JUN 13 2016

Page 22, Lines 9 through 17: While this paragraph reflects the timing of public noticing and a decision per Water Code section 1726, it should be noted as mentioned in Section 3.2.2 of the Addendum that the comment period for noticing was reduced to 15 days per the Governor's April 25, 2014 Executive Order. This reduced comment period is still in effect which has reduced the State Water Board's processing time for water transfers from 45 days to 30 days, if no comments are received.

SWRCB
7

General Comments:

Page 6, Line 1: Change "State Department of Fish and Wildlife" to "California Department of Fish and Wildlife".

SWRCB
8

Page 10, Line 34: Change "and" to "an" before Estuarine Ecology consultant.

SWRCB
9

If you have any questions regarding this matter, please contact me at (916) 319-9141 or by email at patricia.fernandez@waterboards.ca.gov. Written correspondences or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Patricia D. Fernandez, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,

ORIGINAL SIGNED BY:

Patricia D. Fernandez
Senior Water Resources Engineer
Division of Water Rights

ec: Nancy Quan
Department of Water Resources
nquan@water.ca.gov

1
2

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

- 1 **State Agency: State Water Resources Control Board (SWRCB)**
- 2 **Response to Comment SWRCB 1** – Comment noted.
- 3 **Response to Comment SWRCB 2** - In response to this comment, please see text change(s)
4 in the Final Addendum. The requested change does not affect the evaluation of impacts and
5 determination of significance.
- 6 **Response to Comment SWRCB 3** - In response to this comment, please see text change(s)
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- 9 **Response to Comment SWRCB 4** - In response to this comment, please see text change(s)
10 in the Final Addendum. The requested change does not affect the evaluation of impacts and
11 determination of significance.
- 12 **Response to Comment SWRCB 5** - In response to this comment, please see text change(s)
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14 determination of significance.
- 15 **Response to Comment SWRCB 6** - In response to this comment, please see text change(s)
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17 determination of significance.
- 18 **Response to Comment SWRCB 7** - In response to this comment, please see text change(s)
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20 determination of significance.
- 21 **Response to Comment SWRCB 8** - In response to this comment, please see text change(s)
22 in the Final Addendum. The requested change does not affect the evaluation of impacts and
23 determination of significance.
- 24 **Response to Comment SWRCB 9** - In response to this comment, please see text change(s)
25 in the Final Addendum. The requested change does not affect the evaluation of impacts and
26 determination of significance.

1 **6.2.3** *Local Agency: Merced Irrigation District (MID)*



June 7, 2016

Sent by US Mail to:

Mr. Anthony Navasero, Senior Engineer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Also sent by email to:

peiraddendumsingle.yearwatertransferscomments@deltacouncil.ca.gov

Subject: Delta Stewardship Council's Draft PEIR Addendum for Proposed Single Year Water Transfer Amendment

Dear Mr. Navasero,

The Merced Irrigation District (MID) appreciates the opportunity to support the Delta Stewardship Council's adoption of its Draft PEIR Addendum for its Proposed Single Year Water Transfer Amendment. The Council's proposed action would extend and clarify its prior determinations that under California law, single year water transfers do not have significant adverse impacts on the environment, nor significant adverse impacts on the coequal goals as set forth in the Delta Reform Act.

Over several generations, water rights holders across California have developed complex and intricate systems to use local water supplies for the benefit of a variety of both public and private uses. Regardless of whether a project is meant to store, deliver, or conserve water, water systems have been built on the fundamental premise that water is a scarce and precious natural resource.

In the last few years, Californians have been reminded of the limitations of our surface water supplies. The drought we have all been living through has been one of historic proportions, devastating economies and communities across every part of our state.

MID 1

(209) 722-5761 744 West 20th Street P.O. Box 2288 Merced, California 95344-0288 www.mercedid.org
Administration / FAX (209) 722-8421 • Finance / FAX (209) 722-1457 • Water Resources / FAX (209) 726-4176
Energy Resources / FAX (209) 726-7010 • Customer Service (209) 722-3041 / FAX (209) 722-1457

2
3

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

As a steward of the Merced River, MID owns and operates a reservoir and more than 800 miles of delivery facilities that provide water through conjunctive management to more than 175,000 acres of prime farmland, as well as to local farms, communities and towns in eastern Merced County. MID has historically been, and continues to be proactive and aggressive in pursuing projects and opportunities that have multiple objectives, and serves multiple beneficial uses of water.

MID 1
(cont)

The ability to transfer water from one area to another is one of the most important tools that water managers have to maximize the beneficial use of water. Single year water transfers are a critical tool to quickly and efficiently move water from areas where available surface water supplies are more plentiful to areas where there is a critical need. While there is often time to analyze the benefits and effects of longer-term water transfers, opportunities to move water in a single year are almost always short-lived. Single year water transfers are intended to be flexible, allowing for the prompt movement of water without unnecessary delay.

Unfortunately and despite the fact that transfers help improve water supply reliability for all Californians, the complexity of our state's water conveyance and legal/regulatory systems often create substantial roadblocks to the efficient movement of water. Even during this historic drought, water transfers developed for the benefit of fish species and habitat in local rivers and streams followed by the additional benefits of a small, incremental water supply for water users downstream have been extremely difficult, if not impossible to complete.

As Council staff has recognized, single year water transfers provide water supply benefits to not just those receiving the water, but also those transferring it. The Council's proposed action will have a welcome and streamlining effect on the water transfer process while not having a significant adverse impact on the environment or the state's coequal goals. MID appreciates the opportunity to support the Council's proposed action, and looks forward to working with other water managers across the state to proactively maximize the beneficial use of our limited surface water supplies.

MID 2

Respectfully,

John Sweigard
General Manager

(209) 722-5761 744 West 20th Street P.O. Box 2288 Merced, California 95344-0288 www.mercedid.org
Administration / FAX (209) 722-6421 • Finance / FAX (209) 722-1457 • Water Resources / FAX (209) 726-4176
Energy Resources / FAX (209) 726-7010 • Customer Service (209) 722-3041 / FAX (209) 722-1457

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- 2
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- 4
- 5
- 6

Local Agency: Merced Irrigation District (MID)

Response to Comment MID 1 – Comment noted.

Response to Comment MID 2 – Comment noted.

1 **6.2.4 Local Agency: San Luis & Delta-Mendota Water Authority and Westlands**
2 **Water District (SLDMWA/WWD)**
3

San Luis & Delta-Mendota Water Authority



P.O. Box 2157
Los Banos, CA 93635
Phone: (209) 826-9696
Fax: (209) 826-9698

Westlands Water District



3130 N. Fresno St
P.O. Box 6056
Fresno, CA 93703-6056
Phone: (559) 224-1523
Fax: (559) 241-6277

June 13, 2016

VIA ELECTRONIC MAIL

Anthony Navasero, Senior Engineer
Delta Stewardship Council
peiraddendumsingle_yearwatertransferscomments@deltacouncil.ca.gov

Re: Draft Addendum to the Delta Plan Programmatic Environmental Impact Report
(Single-Year Water Transfers Exemption)

Dear Mr. Navasero:

The San Luis & Delta-Mendota Water Authority and Westlands Water District (collectively referred to herein as the "Water Agencies"), submit the following comments on the May 2016 Draft Addendum to the Delta Plan Programmatic Environmental Impact Report regarding proposed changes to the Delta Plan implementing regulations related to single-year water transfers ("Draft Addendum").

SLDMWA
/WWD 1

The Water Agencies support the Delta Stewardship Council's ("Council") conclusion that single-year water transfers do not fit within the statutory definition of "covered action" under the Delta Reform Act.¹ (Draft Addendum, at 1, 15-16.) The proposed amendment to the implementing regulations would exempt single-year water transfers from certifications of consistency and review by the Delta Stewardship Council because they are not "covered actions." (Draft Addendum, at 1, 4.) The Water Agencies agree that water transfers should not be subject to consistency review.

SLDMWA
/WWD 2

The evidence presented to and considered by the Council supports the conclusion that single-year water transfers are not covered actions and should not be subject to consistency review. First, the information before the Council confirms that single-year water transfers are subject to extensive regulatory restrictions and oversight by other state agencies and by federal agencies. (Draft Addendum, at 20-27.) Under the existing regulatory frameworks, most single-year, cross-Delta transfers must already be reviewed and approved by the Department of Water Resources ("DWR"), the State Water Resources Control Board ("SWRCB"), and/or the Bureau

¹ The San Luis & Delta-Mendota Water Authority and Westlands Water District are parties in pending lawsuits against the Council. (*San Luis & Delta-Mendota Water Authority v. Delta Stewardship Council*, Sacramento County Superior Court, Case No. 34-2013-80001500; *Delta Stewardship Council Cases*.) The Water Agencies reserve all claims against the Council and nothing in this letter constitutes a waiver of any pending or future claim.

Delta Stewardship Council
June 13, 2016
Page 2

of Reclamation ("Reclamation"), and many are subject to additional environmental review. (Draft Addendum, at 5-6.) Water transfers involving the State Water Project or Central Valley Project, or both, are also subject to flow and water quality criteria established by the SWRCB, and subject to biological opinions intended to protect endangered species. (Draft Addendum, at 14.) To maintain water quality, for example, DWR and/or Reclamation require a portion of transferred water to be used for Delta outflow as carriage water. (Draft Addendum, at 14.) These existing regulatory frameworks for single-year water transfers provide more than sufficient oversight and ensure comprehensive review.

SLDMWA
/MWD 2
(cont)

Second, the information before the Council refutes the concept of "recurring" or serial single-year transfers. (Draft Addendum, at 3, 9-10, 13.) Recent reports prepared by DWR and the SWRCB demonstrate that each water transfer is unique and dependent on factors that change each year. (Draft Addendum, at 3, 9-10.) The factors changing each year include the hydrology, the buyers and sellers, the sources of water to be transferred, and the needs in water-short areas. (Draft Addendum, at 11-12.)

SLDMWA
/MWD 3

Third, the information before the Council shows that single-year water transfers provide critical water supplies and they are time-sensitive transactions that could be impeded by further unnecessary, administrative proceedings. (Draft Addendum, at 3-4, 11-12.) Single-year transfers provide needed water supplies for municipal and agricultural uses, with consideration and protection of water rights, water quality, and fish and wildlife. (Draft Addendum, at 8-9, 12-14.) Cross-Delta water transfers in particular are an important tool for moving water from geographical areas with available water supplies to areas without adequate water supplies. (Draft Addendum, at 6, 12, 27, 34.) As DWR staff explained to the Council, "additional agency review by the Council of water transfer proposals would not provide additional value and could impede the water transfer process." (Draft Addendum, at 9.)

SLDMWA
/MWD 4

The Water Agencies depend upon single-year water transfers to help alleviate the hardship of water shortages. California policy encourages water transfers as a valuable water management tool that can help re-distribute water to where it is most needed. The Council's proposed treatment of single-year water transfers is consistent with state policy.

SLDMWA
/MWD 5

Thank you for considering these comments,



Jason Peltier
Executive Director
San Luis & Delta-Mendota Water Authority



Philip A. Williams
Deputy General Counsel
Westlands Water District

1 **Local Agency: San Luis & Delta-Mendota Water Authority And Westlands Water District**
2 **(SLDMWA/WWD)**

3 **Response to Comment SLDMWA/WWD 1** – Comment noted.

4 **Response to Comment SLDMWA/WWD 2** – Comment noted.

5 **Response to Comment SLDMWA/WWD 3** – Comment noted.

6 **Response to Comment SLDMWA/WWD 4** – Comment noted.

7 **Response to Comment SLDMWA/WWD 5** – Comment noted.

8

9

1 **6.2.5** *Organization: AquAlliance (AA)*



June 13, 2016

Anthony Navasero, Senior Engineer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814
peiraddendumsingle.yearwatertransferscomments@deltacouncil.ca.gov

Re: Delta Stewardship Council’s Draft Addendum to the Delta Plan Programmatic Environmental Impact Report.

Dear Mr. Navasero:

AquAlliance, the California Sportfishing Protection Alliance, and the California Water Impact Network submit the following comments and questions for the Delta Stewardship Council’s Draft Addendum to the Delta Plan Programmatic Environmental Impact Report (“Addendum”).

AA 1

AquAlliance exists to sustain and defend northern California waters. We have participated in past water transfer processes, commented on past transfer documents, and sued the U.S. Bureau of Reclamation (“Bureau”) three times over water transfers since 2010. In doing so we seek to protect the Sacramento River’s watershed in order to sustain family farms and communities, enhance Delta water quality, protect creeks and rivers, native flora and fauna, vernal pools and recreational opportunities, and to participate in planning locally and regionally for the watershed’s long-term future.

This letter relies significantly on the following references (attached), and incorporates by reference as though fully stated herein, for which we expressly request that a response to each comment contained therein be provided, the following comments submitted on behalf of AquAlliance:

AA 2

- AquAlliance, 2014. Comments and recommendations on U.S. Bureau of Reclamation and San Luis & Delta-Mendota Water Authority’s Draft Long-Term Water Transfer Draft EIS/EIR.
- AquAlliance, 2015. Response to the comments in the Bureau and SLDMWA’s Long-Term Water Transfer Final EIS/EIR.

2

3

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

- AquAlliance, 2015. Comments on Glenn Colusa Irrigation District's Draft EIR for the 10- Wells Project (aka Groundwater Supplemental Supply Project SCH# 2014092076).
- Custis, Kit H., 2014. Comments and recommendations on Bureau and SLDMWA's Draft Long-Term Water Transfer Draft EIS/EIR. Prepared for AquAlliance.
- Custis, Kit H., 2015. Response to the comments in the Bureau and SLDMWA's Long-Term Water Transfer Final EIS/EIR. Prepared for AquAlliance.
- ECONorthwest, 2014. Critique of Bureau and SLDMWA's Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report Public Draft. Prepared for AquAlliance.
- Mish, Kyran D., 2014. Comments for AquAlliance on the Bay Delta Conservation Plan Draft EIR/EIS.
- Cannon, Tom, 2014. Comments on the Bureau and SLDMWA's Long Term Transfers Draft EIR/EIS, Review of Effects on Special Status Fish. Prepared for California Sportfishing Protection Association ("CSPA").
- CSPA et al. 2012. Comments on the Draft Delta Plan Program Environmental Impact Report.
- CSPA et al. 2013. Comments on the DSC Revised Draft Delta Plan Program Environmental Impact Report.

AA 2
(cont)

In addition, we renew the following comments, attached hereto, as fully bearing upon the presently proposed project:

AA 3

- 2010-2011 Water Transfer Program.
- 2013 Water Transfer Program.
- 2014 Water Transfer Program.
- C-WIN, CSPA, AquAlliance Comments and Attachments for the Bay Delta Conservation Plan's EIS/EIR and WaterFix EIS/EIR.
- AquAlliance's comments on the Bay Delta Conservation Plan's EIS/EIR and WaterFix EIS/EIR.
- CSPA's comments on the Bay Delta Conservation Plan's EIS/EIR and WaterFix EIS/EIR.

I. The Addendum Relies on a Weak Foundation

It is noticeable that the Addendum fails to disclose that the Delta Plan's Programmatic Environmental Impact Report ("PEIR") has been in litigation since its approval. Judge Kenny ruled in the case last month and found that there are numerous inadequacies of the environmental document due to the lack of specific numerical targets to reduce exports, actions to lessen environmental harm, restoration of natural flows, increased conservation and reuse measures to improve water reliability, and alternatives to the Twin Tunnels. Therefore, the Delta Plan is inconsistent with the Delta Reform Act. The court's ruling will require a new Plan and environmental document. The Addendum's heavy reliance on the previous environmental review for the Delta Plan¹ makes its impact assessments and conclusions meaningless.

AA 4

¹ "This addendum builds upon the Programmatic Environmental Impact Report for the Delta Plan (Delta Plan PEIR), which includes the Draft Programmatic Environmental Impact Report for the Delta Plan published in November 2011, the Recirculated Draft Programmatic Environmental Impact Report for the Delta Plan published in November 2012, and the Final Programmatic Environmental Impact Report for the Delta Plan published in May 2013..." p. 1

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Additionally, the Addendum also fails to disclose that the Long-Term Water Transfers (“10-Year Water Transfer Program”) Final Environmental Impact Statement/Environmental Impact Report (“10-Year Water Transfer Program FEIS/EIR”) is also being litigated. That complaint asks the court to declare that the Lead Agencies’ Environmental Impact Statement/Report was arbitrary and capricious, ignored relevant new information and failed to meet minimum requirements of the National Environmental Policy Act (“NEPA”) and the California Environmental Quality Act (“CEQA”). The complaint further alleges that the Lead Agencies failed to fully disclose the impacts from the Program and the numerous unknown or changing conditions that currently exist, such as where/how groundwater will be recharged and how the Program will further inhibit the Bureau’s ability to meet Delta flow and water quality standards that were weakened multiple times in 2014 and 2015.

AA 5

The Lead Agencies’ thin veneer for mitigating impacts for the 10-Year Water Transfer Program depends only on monitoring the stressed hydrologic systems (groundwater, streams, and rivers) to produce data that will be reviewed in the future by the Bureau and the California Department of Water Resources (“DWR”). See attached comments mentioned above from AquAlliance (two sets), Cannon, Custis (two sets), EcoNorthwest, and Mish for substantial evidence of the flaws, omissions, and obfuscation in the environmental documents for the 10-Year Water Transfer Program. In addition to the May 2016 court ruling, the Addendum’s considerable reliance on the 10-Year Water Transfer Program FEIS/EIR (pp. 17, 18, 19, 24, 25, 26, 31, 72, 73) makes its impact assessments and conclusions meaningless. The addendum should be withdrawn and the DSC’s consideration of the impacts from single-year water transfers should appear in what are most likely to be a new Delta Plan and another Draft Programmatic Environmental Impact Report based on the court’s ruling.²

AA 6

AA 7

II. Legal Requirements Under CEQA

Fundamental Purpose

The Addendum proposal simply states that it seeks “[t]o extend the determination that water transfers of less than one-year in duration (referred to as single-year water transfers) do not have significant adverse impacts within the meaning of the Delta Reform Act, Water Code section 85000 et seq. (Delta Reform Act).” (p. 1) “This addendum discusses potential changes to extend a determination within the Delta Plan’s implementing regulations that single-year water transfers occurring before December 31, 2016 do [sic] not have significant adverse impacts on the coequal goals, and therefore do not fit the statutory definition of a covered action. Accordingly, such water transfers would not be required to file a certification of consistency with the Delta Plan because that requirement only applies to covered actions.” (*Id.*)

AA 8

A complete and accurate description of the existing and affected environmental setting is critical for an adequate evaluation of impacts to it. See e.g. *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713; *Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.* (1997) 60 Cal.App.4th 1109, 1122; *County of Amador v. El Dorado County Water Agency*

² May 2016. Judge Kenny held, that with respect to arguments in Petitioners’ briefing and briefing incorporated therein by reference, that a peremptory writ shall issue ordering Respondent to revise the Delta Plan and any applicable regulations to: 1) Include quantified or otherwise measureable targets associated with achieving reduced Delta Reliance, reduced environmental harm from invasive species restoring more natural flows, and increased water supply reliability, in accordance with the Delta Reform Act. (Ruling, p. 26, lines 12–14).

(1999) 76 Cal.App.4th 931, 955; *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 94. We will demonstrate in these comments how the PEIRs and the Addendum fail to provide a complete and accurate description of the existing and affected environmental setting.

AA 8
(cont)

Level of CEQA Review is Incorrect

The DSC majority (5-2 vote) determined that “single-year water transfers” have no significant environmental impact. (Addendum, p. 16) “Under the California Environmental Quality Act (CEQA) Guidelines section 15164, an addendum to a previously certified EIR is prepared if minor changes in the adopted project are proposed and none of the conditions in CEQA Guidelines section 15162 would occur.” (p. 1) An Addendum reader may grasp how the DSC reached its faulty conclusion since it relied on past environmental review documents currently in litigation and claims of agencies that buy, sell, or facilitate transfer water. However, the paltry amount of information considered by the DSC is woefully inadequate.

AA 9

In an attempt to fill the information void, we include numerous documents in our submittal for the Addendum that are filled with actual and potential environmental impacts that were never analyzed and/or properly mitigated in the DSC Draft PEIR, the Final PEIR or the 10-Year Water Transfer Program’s Draft and Final EIS/EIRs – documents that are heavily relied upon here to reach the conclusion of no significant impact for one-year water transfers. One might understand the deference given to one’s own documents, the PEIRs, but it is astonishing to read how conclusory statements are deemed facts for the 10-Year Water Transfer Program’s FEIS/EIR, such as:

AA 10

- “The recent NEPA and CEQA document prepared by Reclamation and SLDMWA (Reclamation and SLDMWA 2015) concluded that the multi-year water transfers would not have a significant impact on the Delta ecosystem because the transfers were required to be compliant with the 2008 USFWS and 2009 NMFS biological opinions (see Section 4, *Overview of Water Transfers*, of this addendum, for additional information).
- “The recent NEPA and CEQA document prepared by Reclamation and SLDMWA (Reclamation and SLDMWA 2015) concluded that the multi-year water transfers would not have a significant impact on groundwater and associated habitats following inclusion of mitigation measures, such as use of a streamflow depletion factor.”

The DSC has accepted the Bureau and SLDMWA’s conclusions without considering (or even noting) that, as mentioned above, the 10-Year Water Transfer Program’s FEIS/EIR is being litigated and the DSC staff have apparently failed to review the comments submitted on the DEIS/EIR or the court complaints. If the DSC truly wanted to consider the consequences of water transfers, this would have been prudent. As the professional staff and the DSC must know, anyone may propose a project and reach conclusions that are completely false and/or illegal as long as the veneer fits a CEQA or NEPA document. It isn’t until an environmental document is challenged in court that the public or policy makers know with any certainty if it does or does not comply with the law.

AA 11

The Addendum should be withdrawn for two principal reasons:

1. It tiers from a document that failed to determine the significance of water transfers to the co-equal goals and the environment.
2. Judge Kenny’s court ruled that, at a minimum, part of the Delta Plan and the FEIR are found lacking.

AA 12

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The Addendum Fails to Comply with CEQA Guidelines section 15162

The proposal to lift the December 31, 2016 sunset provision and determination that there are no significant impacts to one-year transfers must be reviewed under CEQA and comply with CEQA Guideline § 15162.³ The DSC chose to ignore significant new information that was not considered in the Draft or Final PEIRs, which makes an Addendum an inappropriate level of CEQA review.⁴

AA 13

1. Fish populations have been plummeting to the point of extinction in the last three years including, but not limited to wild winter-run Chinook salmon, spring-run Chinook salmon,⁵ and Delta smelt.
2. The Bureau has failed and is continuing to fail to operate Shasta Dam to protect fish.⁶ Both DWR and the Bureau have requested and been granted by the SWRCB multiple temporary urgency change orders allowing the agencies to kill fish to the point of extinction.⁷ DWR and the Bureau were allowed to violate D-1641 outflow and salinity requirements in 2014 and similarly did so in 2015. The violations in 2014 operations failed to maintain temperature control, which led to the loss of ~95% of the 2014 winter-run salmon cohort and the loss of virtually all of the 2014 spring-run cohort (of fish that spawn in the Sacramento River). The fish numbers from 2015 are even worse.
3. Groundwater levels in the Sacramento Valley have been dropping significantly (see Table 2 below).⁸
4. Agricultural conversions and expansions to permanent crops have been increasing use and demand throughout the Central Valley.

AA 14

AA 15

AA 16

III. There is Ample Evidence Contradicting a No Significant Impact Finding

We acknowledge that the DSC held meetings to solicit input from panels on the subject of transfers (July 23, 2015 and September 24, 2015). It appears from the Addendum that the DSC weighed the information from the agencies that buy, sell, or facilitate transfer water as more significant than the combined, but separate material supplied by AquaAlliance, Estuarine Ecology, and The Nature Conservancy. The material in this comment letter, which also points to the volumes of information that was available to the DSC prior to the creation of the Addendum, should demonstrate the need to withdraw the Addendum and replace it with a DPEIR to address water transfers.

AA 17

Mr. Thomas Keeling’s opening brief in the DSC lawsuit is a good starting point to address the existence of ample evidence that one-year or ‘temporary’ water transfers have a significant impact on the coequal goals.

While the DSC myopically focused on land use as a means to supposedly advance the coequal goals, it turned a blind eye to other more pressing

³ CEQA Guidelines section 15064 (f) (7) “The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g. a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.”

⁴ CEQA Guidelines section 15153 (d) “An EIR prepared for an earlier project shall not be used as the EIR for a later project if any of the conditions described in Section 15162 would require preparation of a subsequent or supplemental EIR.”

⁵ Doubling Goal Graphs (attached).

⁶ <http://cdec.water.ca.gov/wquality/>

⁷ Aqua Terra Aeris, 2016. Second emended complaint CSPA et al. vs. SWRCB, part one and two (attached).

⁸ http://www.water.ca.gov/groundwater/data_and_monitoring/northern_region/GroundwaterLevel/gw_level_monitoring.cfm#Well

stressors. For instance, the definition of “significant impact” adopted as part of the Delta Plan exclude temporary water transfers (one year or less under WC, §1725) from consistency review as a covered action. (B766-Definitions; Regs., §5001(dd)(3)) As explained by Petitioner CBD, however, these transfers, especially when undertaken serially, have a major impact to Delta water supply and quality. (See WC, §85057.5(a)(4).) These comments demonstrated that most water transfers are called “temporary” even though they often occur year after year. (K12475 (demonstrating most transfers are classified as “temporary”)) The DSC violated the mandate of the DRA with respect to what constitutes a covered action and altogether ignored evidence in the Record that temporary transfers have a significant impact on the coequal goals (particularly ecosystem restoration). (October 2014)

AA 17
(cont)

IV. Hydrology

Groundwater Conditions

A complete and accurate description of the existing and affected environmental setting is critical for an adequate evaluation of impacts to it. *See e.g. San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713; *Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.* (1997) 60 Cal.App.4th 1109, 1122; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 955; *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 94.

AA 18

Because the DSC chose to lift the December 31, 2016 sunset provision and determined that there are no significant impacts to one-year transfers, it chose an Addendum instead of a recirculated DPEIR to advance the changes to the Final PEIR. With that choice, the Addendum contains no Environmental Setting section.

There is no description of the region’s changing climate. The Addendum similarly provides no groundwater elevation data of the Sacramento Valley groundwater basins. DWR provides a number of additional groundwater level and depth to groundwater maps that would have helped inform the DSC of very serious existing groundwater conditions in the Sacramento Valley that may have persuaded the DSC to pursue a more significant level of CEQA review for this proposal.⁹ For some details, see Table 2 below.

V. Cumulative Impacts

CEQA requires evaluation of a project’s incremental effects “viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (CEQA Guidelines § 15065(a)(3).) “[A] cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts.” (CEQA Guidelines § 15065(a)(3).)

AA 19

An EIR must also discuss significant cumulative impacts. CEQA Guidelines §15130(a). Cumulative impacts are defined as two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. CEQA Guidelines §

⁹http://www.water.ca.gov/groundwater/data_and_monitoring/northern_region/GroundwaterLevel/gw_level_monitoring.cfm#Well%20Depth%20Summary%20Maps

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15355(a). "[I]ndividual effects may be changes resulting from a single project or a number of separate projects. CEQA Guidelines § 15355(a). A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable future projects whose impacts might compound or interrelate with those of the project at hand. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time. CEQA Guidelines § 15355(b). The cumulative impacts concept recognizes that "[t]he full environmental impact of a proposed . . . action cannot be gauged in a vacuum." *Whitman v. Board of Supervisors* (1979) 88 Cal. App. 3d 397, 408 (internal quotation omitted).

AA 19
(cont)

Following these standards, the DSC must evaluate the cumulative impacts to water resources caused by the project in conjunction with the closely-related projects. Below is but one example.

The Sacramento Valley Water Management Agreement

The PEIRs and Addendum omit discussion of the SVWMA. The close connection of the Addendum proposal to the SVWMA is laid bare through documents associated with the [Sacramento Valley] Integrated Regional Water Management Program ("SVIRWMP"). The following districts benefitted from funds garnered through the SVIRWMP: Browns Valley Irrigation District, Anderson-Cottonwood Irrigation District, Feather Water District, Glenn Colusa Irrigation District "GCID", Natomas Central Mutual Water Company, Sutter Mutual Water Company, Meridian Farms Mutual Water Company, Pelger Mutual Water Company, Reclamation District 108, River Garden Farms Company, and Butte Water District.¹⁰ Moreover, GCID's 10-Wells DEIR disclosed that public money through Proposition 50 has been used for 11 implementation projects in the Sacramento Valley. However, the details of the projects were not disclosed. Instead, GCID's DEIR asserted that, "Although several of the projects funded by this grant are generally similar in nature, each project has independent utility, and is implemented by each grantee as needed to supplement their current surface water supplies in various water-year types." Nevertheless, the SVWMA and the Sacramento Valley Regional Water Management Plan's documents unveil a very different picture.

In 2003, the Bureau published an NOI/NOP for a "Short-term Sacramento Valley Water Management Program EIS/EIR." (68 Federal Register 46218 (Aug 5, 2003).) As summarized on the Bureau's current website:

The Short-term phase of the SVWM Program resolves water quality and water rights issues arising from the need to meet the flow-related water quality objectives of the 1995 Bay-Delta Water Quality Control Plan and the State Water Resources Control Board's Phase 8 Water Rights Hearing process, and would promote better water management in the Sacramento Valley and develop additional water supplies through a cooperative water management partnership. Program participants include Reclamation, DWR, Northern California Water Association, San Luis & Delta-Mendota Water Authority, some Sacramento Valley water users, and Central Valley Project and State Water Project contractors. SVWM Program actions would be locally-proposed projects and actions that include the development of groundwater to substitute for surface water supplies, conjunctive

¹⁰ GCID 2014. Draft Environmental Impact Report for the 10-Wells Project (aka Groundwater Supplemental Supply Project).

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use of groundwater and surface water, refurbish existing groundwater extraction wells, install groundwater monitoring stations, install new groundwater extraction wells, reservoir re-operation, system improvements such as canal lining, tailwater recovery, and improved operations, or surface and groundwater planning studies. These short-term projects and actions would be implemented for a period of 10 years in areas of Shasta, Butte, Sutter, Glenn, Tehama, Colusa, Sacramento, Placer, and Yolo counties.¹¹

AA 19
(cont)

The resounding parallels between the SVWMA NOI/NOP and the Delta Plan's water transfers are not merely coincidence: they are a piece of the same program, and are closely-related activities that will result in similar effects upon the same environmental resources.

Page 2 of the SVIRWMP's *Proposal for Implementation Grant, Step 2 Attachment 5, Work Plan*¹² presents the centerpiece project, the Conjunctive Water Management Project. "A successful Conjunctive Water Management Project within the Sacramento Valley requires three critical activities that must proceed in unison. These include (1) groundwater production, (2) groundwater recharge, and (3) monitoring and assessment." What follows are the participating districts with the number of production wells they sought:

- Anderson Cottonwood Irrigation District Groundwater Production Element 4 wells
- Browns Valley Irrigation District Water Groundwater Production Element 1 well
- Feather Water District Water Management Groundwater Production Element 1 well
- Glenn-Colusa Irrigation District Groundwater Production Element 8 wells
- Lewis Ranch Groundwater Production Element 1 well
- River Garden Farms Groundwater Production Element 2 wells
- Meridian Farms Groundwater Production Element 1 well
- Pelger Mutual Water Company Groundwater Production Element 1 well
- RD 108 Groundwater Production Element 5 wells

These districts' projects may be presented as "generally similar in nature," with "independent utility" for public purposes, but they are actually pursuing the specific goals of the SVWMA and the SVIRWMP. And let us be clear, those goals are *not* just for "supplemental supply" within their districts as suggested. The SVIRWMP elucidates that, "These elements were strategically formulated under the adopted Sacramento Valley Water Management Agreement (SVWMA, Phase 8, included in Attachment 4), which was executed in December 2002 by more than 40 Sacramento Valley water users, the Department of Water Resources, the Department of Fish and Game, the Bureau of Reclamation, the Fish and Wildlife Service, and various water users throughout the state. Fifty percent of the Conjunctive Water Management Project capacity will be dedicated to meeting water quality standards in the Bay-Delta while the remaining 50 percent will be used to improve local and regional water supply reliability or to help meet other water needs in the state." [emphasis added]¹³

¹¹ http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=788

¹² Northern California Joint Exercises of Powers, June 2006.

¹³ *Id.* p.2.

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For this and all the other deficiencies noted in these comments, the Delta Plan’s Addendum should be withdrawn and replaced with a DPEIR to address water transfers and the failings delineated by Judge Kenny.

AA 20

IX. Additional Comments and Questions

1. Has the 10-Year Water Transfer Program been certified by the DSC as consistent with the Delta Plan? If so, when, and if not, why not?
2. The Addendum addresses information provided by The Nature Conservancy. (p. 14) In an attempt to discredit the information, the Addendum states that in 2014 in the Sacramento Valley approximately 60,000 af was used with groundwater substitution transfers. First, what is the source of this number? That is not provided. Whether it is from TNC, DWR, or the Bureau, it is wrong. The table below illustrates just two sources that will clarify that significantly more groundwater was used in transfers in 2014 than the Addendum represents. It should be noted these figures don’t involve Warren Act transfers, SWRCB approved transfers, or any that involve SWP contractors.

AA 21

AA 22

Table 1.

Bureau of Reclamation accounting	47,195 af ¹⁴
Yuba County Water Agency	56,984 af ¹⁵
	104,179 af

Second, the Addendum trivializes the inaccurate 60,000 af number by stating that it is such a small portion of total Valley groundwater extraction. However, the PEIR and Addendum fail to consider how concentrated the pumping will be in portions of the Sacramento Valley, what are the conditions of the groundwater basins where groundwater substitution transfers may occur, and whether the current level of extraction, let alone with the added strain of transfers, will allow the aquifer to recharge. In the tables below, AquAlliance provides a summary of fall county-level groundwater monitoring results in the northern Sacramento Valley that were not disclosed or considered in the PEIRs or the DSC’s meetings leading to the Addendum.¹⁶

AA 23

¹⁴ U.S. Bureau of Reclamation, 2015. From a FOIA request: 10 BOR-2015-00286_2014 Transfer Summary (Forbearance) NOD (1).pdf. Includes transfers north and south of the Delta.

¹⁵ Aikens, Curt, 2015. Spreadsheet.

¹⁶ http://www.water.ca.gov/groundwater/data_and_monitoring/northern_region/GroundwaterLevel/gw_level_monitoring.cfm#Well%20Depth%20Summary%20Maps

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Table 2.

County Fall '04 - '15	Deep Wells (Max decrease gwe)	Deep Wells (Avg. decrease gwe)**
Butte	-20.6 (-12.7)*	-12.8 (-10.5)*
Colusa	-87.3 (-59.5)*	-35.0 (-59.5)*
Glenn	-89.9 (-79.7)*	-40.1 (-44.3)*
Tehama	-44.0 (-34.6)*	-11.6 (-10.9)*

County Fall '04 - '15	Intermediate Wells (Max decrease gwe)	Intermediate Wells (Avg. decrease gwe)**
Butte	-26.0 (-23.0)*	-12.9 (-9.4)*
Colusa	-125.4 (-40.6)*	-32.4 (-22.6)*
Glenn	-58.0 (-57.2)*	-26.7 (-25.0)*
Tehama	-35.9 (-30.2)*	-13.6 (-12.4)*

County Fall '04 - '15	Shallow Wells (Max decrease gwe)	Shallow Wells (Avg. decrease gwe)**
Butte	-19.2 (-17.6)*	-8.0 (-5.9)*
Colusa	-51.4 (-36.7)*	-10.5 (-7.6)*
Glenn	-58.0 (-53.5)*	-15.8 (-15.1)*
Tehama (Sac Valley basin)	-34.1 (-30.2)*	-11.1 (-9.5)*

1. * 2004-2014 monitoring results are in parentheses for comparison with 2015 results.
2. ** Some average well depth numbers are not accurately comparable between 2004-2014 and 2004-2015 due to a change in the number of wells monitored.
3. Highlighted in yellow are negative changes of over 10 feet.

In addition, significant concerns about the results for fall 2015 groundwater levels are summarized in the Northern Sacramento Valley Integrated Regional Water Management Board meeting: "Bill Ehorn (Chief of Groundwater Section in Northern Region Office, DWR) gave an update on groundwater levels within the NSV region. Change maps for October groundwater levels show that in much of the northern valley the groundwater levels are lower than 2011 – going from bad to worse. Historic groundwater level hydrograph maps show that groundwater levels are the lowest ever on record. A wet winter will help the water tables rebound but deeper aquifers [sic] will take longer to rebound."¹⁷ (emphasis added)

It is quite clear that the PEIRs and the Addendum failed to disclosure and analyze impacts to current groundwater elevation, and therefore supply. This leaves the public without the ability to comment on mitigation measures, a mitigation monitoring plan, and without any

¹⁷ December 7, 2015. MINUTES Northern Sacramento Valley Integrated Regional Water Management Board Meeting, p. 4 of 23 pdf.

AA 23
(cont)

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advance notice of "significant adverse impacts" which is an unacceptable position and a violation of CEQA. (§ 15071, subd. (a), (e)).

AA 23
(cont)

3. The PEIR and the Addendum fail to describe the ancient age of water stored in the down gradient portion of the aquifer located under the Project. According to Dudley, "Test results indicate that the 'age' of the groundwater samples ranges from less than 100 years to tens of thousands of years. In general, the more shallow wells in the Lower Tuscan Formation along the eastern margin of the valley have the 'youngest' water and the deeper wells in the western and southern portions of the valley have the 'oldest' water."¹⁸ This has been documented by experts from CSU East Bay and Lawrence Livermore Laboratory: "A key parameter for examining groundwater vulnerability to contamination and sustainability of groundwater production is mean groundwater residence time, as quantified by the tritium-helium dating method. In addition, comparison of stable isotopic signatures between surface water and groundwater is useful for delineating surface water-groundwater interaction."¹⁹ This has tremendous long-term consequences for the groundwater basins in the Sacramento Valley.

AA 24

4. Modeling

a) The Addendum presents many of DWR and the Bureau's self-congratulatory assurances about many topics including modeling. "The DWR representatives discussed that DWR and Reclamation are developing a new modeling tool to more accurately estimate the streamflow depletion factor (see Section 4, Overview of Water Transfers, in this addendum for discussion of this factor and other water transfer methods and processes). The DWR representatives discussed that DWR and Reclamation also initiated a Sacramento Valley Stream Flow Depletion Factor Management Group, starting in February 2015, to provide management and technical guidance to groundwater modeling improvements." (p. 8) Is it possible for the DSC to see that, as with so many plans and mitigation proposals by DWR and the Bureau, this is not currently operational and therefore not protective of streamflow now? Deferred mitigation, plans, and projects have not and will not currently provide any information or protection for the environment

AA 25

b) AquAlliance submitted significant comments on a 10-Wells Draft EIR (attached) for one of the regular participants in water transfers, GCID. The critique of the modeling used by the largest irrigation district in the Sacramento Valley absolutely pertains to the Delta Plan, the Delta Plan's PEIRs, and the Addendum. Our comments below are highly illustrative of the deficiencies in the tools used to reach conclusions that are presented to policy makers and the public as facts.

AA 26

SacFEM has serious flaws yet is relied on exclusively for projections and impact analysis. Material produced for AquAlliance's comments on the 10-Year Water Transfer Program's EIS/EIR is equally relevant for the 10-Wells Project and is presented here. "One example of incorrect modeling assertions in the EIR/EIS is the characterization¹ of SacFEM2013 and its parent code

¹⁸ Dudley, Toccoy, 2005. *Seeking an Understanding of the Groundwater Aquifer Systems in the Northern Sacramento Valley: An Update*.

¹⁹ Moran, Jean et al. 2012. *Sources of Recharge and Groundwater Residence Times in the Northern Sacramento Valley*. Conference Abstract for *Water for Seven Generations: Will California Prepare for It?*.

AA 26
(cont)

MicroFEM as ‘three-dimensional’ and ‘high-resolution’. In fact, the SacFEM2013 model provides only a linked set of two-dimensional analyses²⁰, and would more charitably be described as “two-and-a-half dimensional” instead of possessing a fully-3D modeling capability. This limitation is not an unimportant detail, as a general-purpose 3D groundwater model could be used to predict many important physical responses, e.g., the location of the phreatic surface within an unconfined aquifer. For the SacFEM2013 model, this prediction is part of the data instead of part of the computed solution, and hence SacFEM2013 apparently has no predictive capability for this all-important aquifer response.”²⁰

The relevant content from the *SACFEM2013: Sacramento Valley Finite Element Groundwater Flow Model User’s Manual*²¹ on this topic illustrates that the model is indeed being touted as having the capacity “[t]o generate a 3D surface defining the elevation of the base of fresh groundwater.” (p. 3-5.) In addition, the DEIR states that, “SACFEM2013 was developed using the MicroFEM modeling code (MicroFEM, 2015), which is capable of simulating three-dimensional, transient, single-density groundwater flow in layered systems.” (p. A-1.) Sadly, it is clear that the DEIR is relying on the very limited predictive capability of SacFEM for many of the most crucial conclusions for disclosing the significance of impacts from the 10-Wells Project.

This thin veneer is no substitute for actual, on the ground data from GCID’s groundwater substitution transfers using the five existing wells. For example, “GCID pumped groundwater from July to September 2013 to make water available for transfer to the San Luis & Delta Mendota Water Authority (SLDMWA). Groundwater was pumped in lieu of diverting surface water under its pre-1914 water right and its Settlement Contract No. 14-06-200-855A-R-1 with the United States Bureau of Reclamation (USBR).”²² The results of the groundwater substitution transfer are poorly discussed in the report, regularly using vague numeric approximations such as “recovered to within a few feet” and “generally recovered.” However, the exhibits highlight the serious effects from pumping 5,000 af in 2013. When Figure D-7 is contrasted with Figure D-8, it is clear that impacts were occurring as far as 3-4 miles away across the Sacramento River in Butte County and were still drawing water to the cone of depression six months later. The hydrograph figures illustrate some conditions that are not in the text and contradict some of the report, such as:

- Figure C- 2. Production well GCID 2 experienced a precipitous collapse of 240 feet at the end of the transfer period, but appears to have almost recovered in March 2014.

²⁰ Mish, Kyran D., 2014. Comments for AquAlliance on Long-Term Water Transfers Draft EIR/EIS, p. 3.

²¹ “A complete description of the construction and calibration of SACFEM2013 is provided in SACFEM2013: *Sacramento Valley Finite Element Groundwater Flow Model User’s Manual* (CH2M HILL and MBK Engineers, Inc., 2015).” (DEIR p. A-1.)

²² West Yost Associates, 2014. *2013 Final Water Transfer Report* for Glenn Colusa Irrigation District, p. 1.

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- Figure C-10 Monitoring well 21N02W04G002M dropped over 50 feet at the end of the transfer period and in March 2014 was still approximately 13 feet below the March 2013 starting measurement.
- Figure C-13. Monitoring well 22N02W01N001M dropped over 90 feet at the end of the transfer period and in March 2014 was still approximately 10 feet below the March 2013 starting measurement.
- Figure C-14. Monitoring well 22N02W15C002M dropped over 50 feet at the end of the transfer period and in March 2014 was still approximately 15 feet below the March 2013 starting measurement.

AA 26
(cont)

Actual data with additional, unbiased professional analysis would have better informed the public than what is provided with the DIEIR's reliance on modeling. "MicroFEM is a poor choice for such large-scale modeling. It is an old code that apparently utilizes only the simplest (and least accurate) techniques for finite-element modeling of aquifer mechanics, and MicroFEM (and hence SacFEM2013) embed serious limitations into the model that compromise the accuracy of the computed results."²³

X. Conclusion

AquAlliance, CSPA, and C-WIN have demonstrated in our multiple comment letters on the DPEIR, the Revised Draft PEIR, lawsuit, and comments here that the approved Final PEIR is inadequate. The court's ruling appears to agree with this position. For this and the many reasons discussed above, the Addendum should be withdrawn.

AA 27

Our groups respectfully requests notification of any meetings that address this Addendum or water transfers before the DSC.

AA 28

Sincerely,

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caroleekrieger@cox.net

²³ Mish, Kyran D., 2014. Comments for AquAlliance on Long-Term Water Transfers Draft EIR/EIS, p. 4.

1 **Organization: AquAlliance (AA)**

2 **Response to Comment AA 1** – Comment noted.

3 **Response to Comment AA 2** – Comment noted. CEQA does not require responses to
4 Comments on addenda. Regardless, the referenced comments are not comments on the proposed
5 regulatory amendment (Proposed Project) or on this Addendum.

6 **Response to Comment AA 3** - Comment noted. CEQA does not require responses to
7 Comments on addenda. Regardless, the referenced comments are not comments on the Proposed
8 Project or on this Addendum. Please refer to Master Response 1 for a discussion of the
9 relationship of this Proposed Project, the *Department of Water Resources and Bureau of*
10 *Reclamation Water Transfer White Paper Requirements*, and other environmental documents.

11 **Response to Comment AA 4** – Please refer to Master Response 2.

12 **Response to Comment AA 5** – This Addendum takes advantage of prior work by other
13 agencies on environmental topics implicated by the Proposed Project. The Addendum
14 summarizes relevant substantial evidence and conclusions reached in the pertinent environmental
15 and technical documents which are cited in the Addendum. For example, the Addendum relies on
16 information presented in the 2015 *Department of Water Resources and Bureau of Reclamation*
17 *Water Transfer White Paper Requirements* concerning current regulatory processes. Please refer
18 to Master Response 1.

19 **Response to Comment AA 6** – Regardless of the status the EIS/EIR for the 10-year Water
20 Transfer Program, which is Reclamation’s and San Luis & Delta-Mendota Water Agency’s
21 project, the water transfers that would be required to be consistent with the Delta Plan would only
22 involve water transfers between willing sellers and/or buyers located within the Sacramento-San
23 Joaquin Rivers Delta or Suisun Marsh or cross-Delta water transfers. The Proposed Project does
24 not involve changes in Delta Plan regulations with regard to these longer term water transfers,
25 however. The majority of previous water transfers that have occurred in whole or in part within
26 the Sacramento-San Joaquin Rivers Delta or Suisun Marsh have involved cross-Delta water
27 transfers that have used the SWP or CVP facilities and must be consistent with requirements
28 published annually in the *Water Transfer White Paper* reports. The Addendum assumes that
29 DWR and Reclamation would continue to issue these annual reports with updated requirements.
30 Please refer to Master Response 1 for a discussion of the relationship of the 2015 *Water Transfer*
31 *White Paper* (DWR and Reclamation 2015) and previous environmental documents to this
32 Addendum and the Proposed Project. The referenced comments on other environmental
33 documents are not comments on the Proposed Project or on this Addendum.

34 **Response to Comment AA 7** – Please refer to response to Comments AA5 and AA6 and to
35 Master Response 2.

36 **Response to Comment AA 8** – Please refer to Master Response 3 and response to Comment
37 AA18.

38 **Response to Comment AA 9** – This Addendum takes advantage of prior work by other
39 agencies on environmental topics implicated by the Proposed Project. The Addendum
40 summarizes relevant substantial evidence and conclusions reached in the pertinent environmental
41 and technical documents which are cited in the Addendum. For example, the Addendum relies on
42 information presented in the 2015 *Department of Water Resources and Bureau of Reclamation*
43 *Water Transfer White Paper Requirements* concerning current regulatory processes. Please refer
44 to Master Response 1.

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1 **Response to Comment AA 10** – This Addendum takes advantage of prior work by other
 2 agencies on environmental topics implicated by the Proposed Project. The Addendum
 3 summarizes relevant substantial evidence and conclusions reached in the pertinent environmental
 4 and technical documents which are cited in the Addendum. For example, the Addendum relies on
 5 information presented in the 2015 *Department of Water Resources and Bureau of Reclamation*
 6 *Water Transfer White Paper Requirements* concerning current regulatory processes. Please refer
 7 to Master Response 1.

8 **Response to Comment AA 11** – Please refer to response to Comment AA5.

9 **Response to Comment AA 12** – Please refer to Master Response 2.

10 **Response to Comment AA 13** – This Addendum evaluates changes that have occurred,
 11 including new regulations, and new information since approval of the Delta Plan in 2013. The
 12 annual changes in populations of Winter-run and Spring-run Chinook Salmon and Delta Smelt
 13 are monitored by NMFS and USFWS, respectively, in accordance with the current biological
 14 opinions. If the conditions of these populations are not consistent with the assumptions and
 15 findings of the biological conditions, it is the responsibility of NMFS and USFWS to consider the
 16 need for re-consultation. Until any future re-consultation processes are complete, DWR and
 17 Reclamation are required to operate the SWP and CVP, respectively, in accordance with the
 18 existing biological opinions. Therefore, the existing conditions considered in this Addendum
 19 consist of continued operation of the SWP and CVP in accordance with the biological opinions,
 20 including limitations on water transfers. Please refer to Master Response 3.

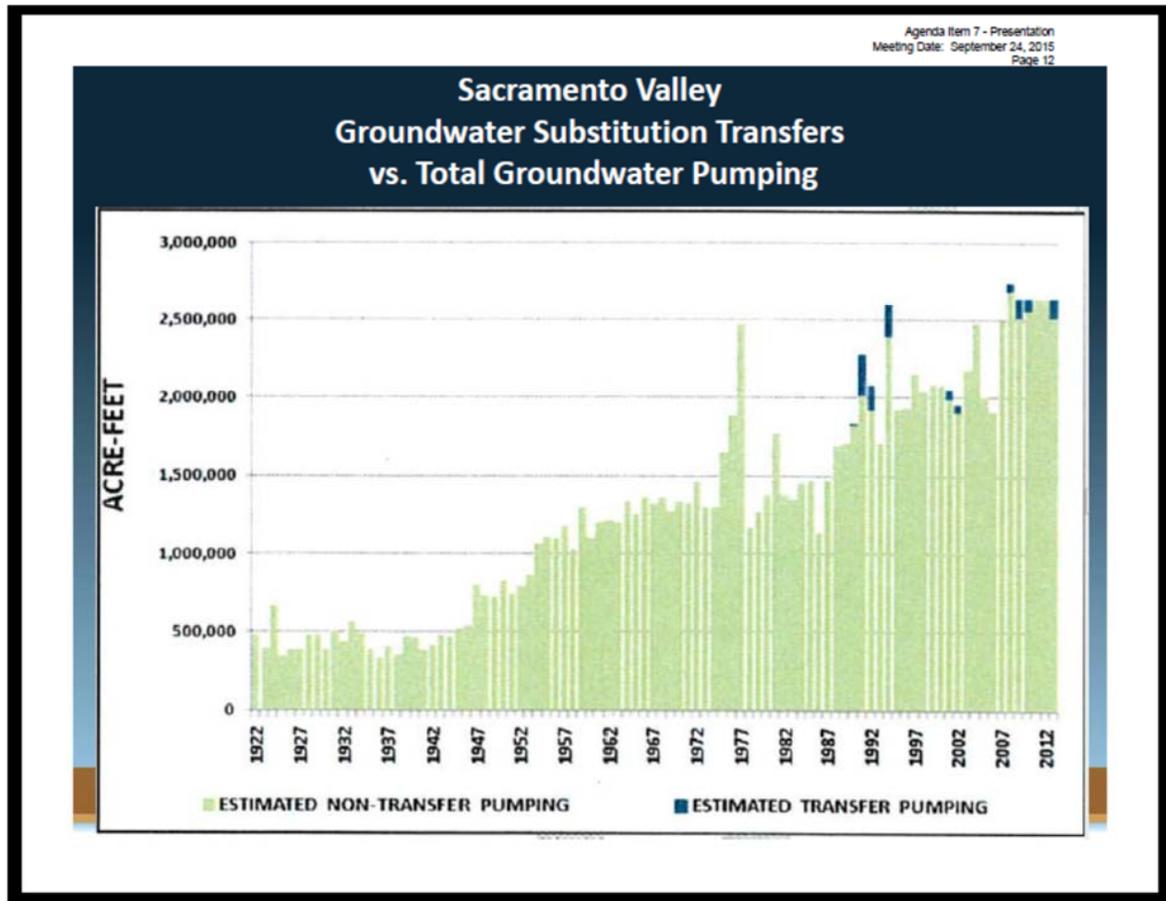
21 **Response to Comment AA 14** – The actions by Reclamation related to the operations of
 22 Shasta Dam in accordance with the requirements of 2009 NMFS biological opinion are
 23 continuously reviewed, including real-time changes in operations related to climate change and
 24 other operational aspects. These actions are not subject to review by the Council.

25 Operations of the SWP facilities by DWR and the CVP facilities by Reclamation related to the
 26 SWRCB requirements are not subject to review by the Council, and were only approved
 27 following completion of environmental reviews and consultation with USFWS and NMFS.

28 **Response to Comment AA 15** – As described on pages 3-4 and 3-5 of the Recirculated Draft
 29 Program Environmental Impact Report of the Delta Plan PEIR, groundwater substitution water
 30 transfer would result in increased groundwater pumping in the vicinity of the seller, and
 31 associated decreased groundwater levels. The duration of the reduction in groundwater levels
 32 would be dependent on the frequency of transfer operations and the volume of groundwater
 33 withdrawal.

34 This Addendum also relies on and makes reference to the slide presentation by DWR at the
 35 Council meeting on September 24, 2015. Slide Number 12 (reproduced below) indicates that
 36 groundwater withdrawals in the Sacramento Valley have increased substantially over the past 60
 37 years; however, the amount of groundwater withdrawals associated with groundwater substitution
 38 transfer methods declined in the past 10 years. While increased groundwater withdrawals may be
 39 related to reduction in groundwater elevations in portions of the Sacramento Valley, as shown in
 40 Figure 3-10 of the Delta Plan, overall groundwater elevations in the Sacramento Valley have been
 41 relatively stable over the past 40 years.

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Please refer to Master Response 3.

Response to Comment AA 16 – Figure 7-4 in the Delta Plan PEIR indicates the extent of irrigated agricultural lands in the Central Valley. It was assumed in the Delta Plan PEIR and the Addendum that these lands would continue to be irrigated with annual, perennial, or permanent crops. It also was assumed in the PEIR and the Addendum that if surface water availability was reduced due to operational constraints or climatic conditions, the lands would continue to be irrigated with groundwater. It also was assumed that if the extent of irrigated permanent crops increases and the extent of irrigated annual or perennial crops declines, the lands irrigated with groundwater in drier years would increase because the permanent crops probably would not be idled in the drier years. Therefore, providing lands with transferred surface water would result in changes in groundwater in the areas that purchase transferred water; and would not result in changes in total irrigated acreage. Please refer to Master Response 3.

Response to Comment AA 17 – All information presented at the Council meetings as described in the Addendum was given equal consideration in the development of the Addendum. As described in the Addendum, the information presented by the representative of AquAlliance at the July 23, 2015 Council meeting and by the representative of The Nature Conservancy at the September 24, 2015 Council meeting indicated that groundwater elevations had declined in the Sacramento Valley. This information was consistent with the information presented by the DWR representative at the September 24, 2015 Council meeting (as described in Response to Comment AA 15). However, as indicated in the presentation by the DWR representative, groundwater

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 withdrawals associated with the use of groundwater substitution methods for water transfers is a
 2 small proportion of the total groundwater withdrawal volume in the Sacramento Valley.
 3 Therefore, the difference in groundwater conditions between conditions without groundwater
 4 substitution methods for water transfers and conditions with groundwater substitution methods
 5 for water transfers would be minor.

6 **Response to Comment AA 18** – Climate change conditions are discussed in Chapter 4 of the
 7 Delta Plan PEIR. Please refer to Master Response 3 related to potential changes in existing
 8 conditions since certification of the Delta Plan PEIR. Please refer to response to comment AA 15
 9 related to changes in groundwater elevation considered in the Addendum.

10 **Response to Comment AA 19** – Reclamation has stated that the Sacramento Valley Water
 11 Management Agreement is not being pursued (Reclamation and SLDMWA 2015); therefore, this
 12 potential project is not considered to be reasonably foreseeable.

13 **Response to Comment AA 20** – Please refer to responses to Comments AA 1 through AA
 14 19.

15 **Response to Comment AA 21** – As discussed at the September 24, 2015 Council meeting,
 16 due to the uncertainties of time delays related to single-year water transfers, the SLDMWA
 17 worked with Reclamation to implement a water transfer program which provides flexibility on an
 18 annual basis. This is consistent with information in the presented in the *Long-Term Water*
 19 *Transfers Environmental Impact Statement/Environmental Impact Report, Final (Long-Term*
 20 *Water Transfer EIS/EIR)* (Reclamation and SLDMWA 2015). The *Long-Term Water Transfer*
 21 *EIR/EIS* includes a purpose and need statement to “facilitate and approve voluntary water
 22 transfers” for “immediately implementable and flexible supplemental water supplies to alleviate
 23 shortages.” The *Long-Term Water Transfer EIR/EIS* states that the water transfers considered in
 24 that document:

25 *“Transfers included in this EIS/EIR are not part of a “program.” More specifically,*
 26 *Reclamation is not initiating transfers or managing a bank or program to solicit or*
 27 *connect sellers and buyers. Buyers and sellers are responsible for identifying one*
 28 *another, initiating discussions, and negotiating the terms of the transfers, including*
 29 *amount of water for transfer, method to make water available, and price. Buyers and*
 30 *sellers must prepare transfer proposals for submission to Reclamation. The transfer*
 31 *proposals must identify whether the transfers are included in the selected alternative, as*
 32 *well as other required transfer information as defined by Reclamation and appropriate*
 33 *mitigation measures. Proposals must also be submitted to DWR if the transfers require*
 34 *use of DWR facilities or the transfers involve a seller with a settlement agreement with*
 35 *DWR.”*

36 As a Federal agency, Reclamation is not required to file a certification of consistency with the
 37 Delta Plan. SLDMWA decided not to submit a certification of consistency because the *Long-*
 38 *Term Water Transfer EIR/EIS* was only a part of the approval process for individual water
 39 transfers that will occur throughout the 10-year period. This decision not to submit a certification
 40 of consistency was not challenged. Regardless of that particular project’s status as a covered
 41 action, the Council considers the *Long-Term Water Transfer EIR/EIS* to be informative related to
 42 cross-Delta water transfers.

43 **Response to Comment AA 22** – The text referred to in this comment is consistent with the
 44 values provided in the Staff Report presented at the November 19, 2015 Council meeting. The
 45 text referred to in this comment has been modified to be consistent with a larger value (114,400
 46 acre-feet/year) presented in the DWR presentation at the September 24, 2015 Council meeting

1 which is referred to in other portions of this Addendum (DWR 2015). Please see text change(s) in
2 the Final Addendum. The requested change does not affect the evaluation of impacts and
3 determination of significance.

4 **Response to Comment AA 23** – Please refer to responses to Comments AA 15 and AA 22. It
5 would be speculative to consider the location of groundwater substitution actions or whether the
6 groundwater substitution actions would be located in the same geographical areas. However, as
7 described in the Addendum, most of the single-year cross-Delta water transfers would require use
8 of the SWP and CVP water transfer facilities. Therefore, DWR and Reclamation would require
9 pre-implementation groundwater information, mitigation plans to avoid groundwater elevation
10 declines that would be greater than without the water transfer, and groundwater monitoring data
11 collection during the water transfer period.

12 **Response to Comment AA 24** – It would be speculative to consider the location of
13 groundwater substitution actions or if the groundwater substitution actions would use wells that
14 would extend into the Lower Tuscan Formation. However, as described in the Addendum, most
15 of the single-year cross-Delta water transfers would require use of the SWP and CVP water
16 transfer facilities. Therefore, DWR and Reclamation would require pre-implementation
17 groundwater information, mitigation plans to avoid groundwater elevation declines that would be
18 greater than without the water transfer, and groundwater monitoring data collection during the
19 water transfer period.

20 It is noted that in the recent *Long-Term Water Transfers Environmental Impact*
21 *Statement/Environmental Impact Report, Final* (Reclamation and SLDMWA 2015) in which
22 groundwater substitution could provide substantial amounts of water to be considered for cross-
23 Delta water transfers, Reclamation and San Luis & Delta-Mendota Water Authority indicated that
24 groundwater substitution pumping wells that withdraw water within the vicinity of the potentially
25 disputed Tuscan and Tehama subsurface formations would constitute a small portion of the
26 groundwater substitution withdrawals. Under the Long-Term Water Transfer project,
27 groundwater withdrawals would be monitored, and if necessary, mitigated by implementing
28 Mitigation Measure GW-1 in *Long-Term Water Transfer EIS/EIR*. Please refer to Master
29 Response 1.

30 **Response to Comment AA 25** – All cross-Delta water transfers that involve SWP and/or
31 CVP facilities need to comply with the current and future criteria presented in the annual *Water*
32 *Transfer White Paper*. The historic and current *Water Transfer White Paper* identify the annual
33 Stream Flow Depletion Factor based upon annual calculations. As described in Section 4 of the
34 Addendum, DWR is preparing a model that could be used to project the Stream Flow Depletion
35 Factor for a longer hydrologic period than one-year. Until the model is completed, however, the
36 *Water Transfer White Paper* will identify the annual Stream Flow Depletion Factor.
37 Incorporation of the Stream Flow Depletion Factor criteria by cross-Delta water transfer sellers
38 that use SWP and/or CVP facilities could be considered to be a mitigation measure by DWR
39 and/or Reclamation for that water transfer if it has not already been included in the project
40 description of the water transfer by the transfer proponent. Incorporation of the Stream Flow
41 Depletion Factor is not a mitigation measure for implementation of the Proposed Project
42 addressed in this Addendum because the Proposed Project will not result in a change in physical
43 conditions, and therefore, will have no significant environmental effects.

44 **Response to Comment AA 26** – The referenced comments are not comments on the
45 Proposed Project or on this Addendum. This Addendum does not include hydrogeologic
46 modeling for future water transfer proposals. It would be speculative to consider the volume or
47 the locations of future groundwater substitution actions. However, as described in the Addendum,
48 most of the single-year cross-Delta water transfers would require use of the SWP and CVP water

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1 transfer facilities. Therefore, DWR and Reclamation would require pre-implementation
2 groundwater information, impact analyses that could require hydrogeologic modeling, and
3 mitigation plans to avoid adverse impacts to groundwater that would not have occurred without
4 the water transfer.

5 **Response to Comment AA 27** – Please refer to responses to Comments AA 2 through AA
6 26.

7 **Response to Comment AA 28** – Comment noted.

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1 **6.2.6** *Organization: Local Agencies of the North Delta (LAND)*



tel: 916.455.7300 · fax: 916.244.7300
1010 F Street, Suite 100 · Sacramento, CA 95814

June 13, 2016

SENT VIA EMAIL
(peiraddendumsingle.yearwatertransferscomments@deltacouncil.ca.gov)

Anthony Navasero, Senior Engineer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

RE: Comments on Draft Addendum to the Delta Plan Programmatic
Environmental Impact Report

Dear Mr. Navasero:

Local Agencies of the North Delta (“LAND”) submits the following comments on the Delta Stewardship Council’s (“DSC’s”) Draft Addendum to the Delta Plan Programmatic Environmental Impact Report (“Addendum”).¹

LAND
1

LAND is concerned about the environmental effects of what the DSC has characterized as short-term water transfers in the Delta because the Delta already faces interrelated problems of inadequate water supplies, instream flow deficits, water quality impairments, and degraded aquatic habitats. Allowing more water transfers to forego the consistency review process would worsen those existing problems. In particular, transfers that lead to groundwater substitution exacerbate river depletions, thereby reducing flows into the Delta. Continuing single year water transfers without any DSC oversight worsens these conditions.

A. This Addendum Is Inappropriate Because the Underlying PEIR Is Invalid

LAND
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It is improper for DSC to adopt an addendum to the Delta Plan Programmatic Environmental Impact Report (“PEIR”) because of the legal status of the PEIR. An agency must “prepare an addendum to a *previously certified EIR* if some changes or additions are necessary but none of the conditions described in Section 15162 calling for

¹ LAND member agencies cover an approximately 120,000 acre area of the Delta. Current LAND participants include: Reclamation Districts 3, 150, 307, 317, 407, 501, 551, 554, 744, 755, 813, 999, 1002, 2067, 2011 and the Brannon-Andrus Levee Maintenance District. Some of these agencies provide both water delivery and drainage services, while others only provide drainage services. These districts also assist in the maintenance of the levees that provide flood protection to homes and farms.

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preparation of a Subsequent EIR have occurred.” (Cal. Code Regs., tit. 14, § 15164, subd. (a) [“CEQA Guidelines”]; see also Pub. Resources Code, § 21166) (*italics added*.) On May 18, 2016, the Superior Court of Sacramento County issued a ruling in the coordinated case challenging the Delta Plan as inconsistent with the Delta Reform Act (Wat. Code, §§ 85000 et seq. [“DRA”]) and the PEIR inadequate under California Environmental Quality Act (Pub. Resources Code, §§, 21000 et seq. [“CEQA”]), among other claims. (May 18, 2016 Ruling on submitted Matter, *Delta Stewardship Council Cases*, Sacramento County, 2015, JCCP No. 4758 [“Ruling”], attached hereto as Exhibit A.) The Ruling requires the DSC to materially revise the Delta Plan and associated regulations in order to comply with the DRA. (See, e.g., Ruling, pp. 26, 38, 72.) The court further held that all CEQA claims in the case had been mooted. (Ruling, p. 73.) The petitioners’ CEQA claims would only be moot only if the necessary revisions to the Delta Plan and regulations would require new CEQA analysis of the revised Delta Plan and regulations.² (See Pub. Resources Code, § 21166; CEQA Guidelines, § 15162.) Moreover, nothing in the Ruling supports DSC’s assumption that removing the sunset provision is appropriate; the Ruling addressed only the temporary exemption of short-term transfers from “covered action” status.

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Thus, because the Ruling will result in the decertification of the PEIR, DSC may not now adopt an addendum to it.

B. The Addendum Is Inadequate Because It Fails to Analyze Potentially Significant Impacts Not Considered in the PEIR of Exempting Short-Term Transfers from DRA Covered Action Status

LAND
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Even if the PEIR were valid, it would still violate CEQA to adopt this Addendum. An addendum is appropriate where “some changes or additions [to an EIR] are necessary but none of the conditions described in Section 15162 calling for preparation of a Subsequent EIR have occurred.” (CEQA Guidelines, § 15164, subd. (a); see also Pub. Resources Code, § 21166.) Subsequent review is required where: substantial changes to the project will require major revisions of the previous EIR due to new or substantially more severe environmental effects, substantial changes will occur with respect to the

² See, e.g., *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 101-02 (challenges to adequacy of EIR were moot only where a writ issued to set aside the EIR and command fresh analysis of impacts); *Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 920 (declining to opine on certain CEQA issues because the inadequacies of the challenged EIR resulted in setting aside the entire EIR and “[a] new EIR must, therefore, be drafted”).

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circumstances of the project that will cause new or substantially more severe environmental effects, or new information of substantial importance becomes available. (CEQA Guidelines, § 15162, subd. (a); see also Pub. Resources Code, § 21166.)

LAND
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1. The Project Description Is Flawed

Treating all temporary water transfers as exempt from “covered action” status under the DRA would likely cause new or substantially increase existing significant environmental effects. This hides the impacts of transfers by: (1) allowing serial, repeated transfers to continue to be classified appear as single year transfers; and (2) ignoring effects of large single year transfers and the cumulative effects of multiple temporary transfers occurring in one year.³ DSC attempts to refute the existence of serial transfers by claiming that these recurring transfers are only a “theoretical concept” because each transfer is “unique” with respect to water sources, volumes of transfer water available and needed, parcels of land participating in providing and using the transferred water transfers, among other metrics. (Addendum, p. 3.) However, these transfers need not contain the exact same specifications from year to year to cause the same significant environmental effects. For instance, if there is a transfer from one water rights holder of 1,000 acre-feet of water to “Buyer A” one year, and 1,050 acre-feet to buyer B the next, according to the DSC, these are not recurring transfers, but that does not change the fact that the groundwater table would be depleted by 2,050 acre-feet if groundwater substitution occurs. Additionally, the State Water Resources Control Board has begun tracking which short-term transfers qualify as a “Prior Year Transfer,” undermining DSC’s theory that only recurring transfers that share identical characteristics should be treated as such.

http://www.waterboards.ca.gov/waterrights/water_issues/programs/water_transfers/docs/2016transfertable.pdf.)

Equally important are the cumulative effects of all temporary water transfers that occur within a year. SWRCB data shows that most recent water transfers are classified as “temporary”, with 100% of all proposed transfers, totaling 250,000 acre-feet of water, categorized as temporary in 2010. (See Exhibit B, CBD Comment, p. 1.) For 2016, over 350,000 acre-feet of water will be made available through temporary transfers. (http://www.waterboards.ca.gov/waterrights/water_issues/programs/water_transfers/docs/2016transfertable.pdf.) The Addendum also dismisses these impacts as “theoretical,” (Addendum, p. 3), but notes that the duration of the exemption was previously limited to three years in order to limit potential cumulative impacts. (*Ibid.*) Now that DSC intends

³ Public Comment of Center for Biological Diversity, April 22, 2013, attached as Exhibit A (“CBD Comment”).

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to remove this limitation, it does not address the cumulative impacts of doing so. (Addendum, p. 4.)

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Though DSC claims that most of these transfers will be subject to CEQA (Addendum, p. 5), all temporary transfers under SWRCB's sole jurisdiction, which includes all transfers mentioned in this paragraph of the Addendum, are exempt from CEQA review (Wat. Code, § 1729; see also Hanak and Lund, *Managing California's Water: From Conflict to Resolution*, (2011), pp.333-34.) Many of these transfers will also not be subject to either CEQA or National Environmental Policy Act ("NEPA") review because they will be between private parties and will not require any discretionary agency approval.⁴ To make these actions exempt from "covered action" status under the DRA would allow private actors to transfer significant amounts of water without performing any review of the effect on the co-equal goals or the environment.

2. The Addendum Uses an Incorrect Baseline

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The proper baseline against which to measure the effects of this action is not a situation where all short term transfers are exempt from "covered action" status, but a situation where the DSC must determine whether each short term transfer is a "covered action" under Water Code section 85057.5. CEQA requires agencies to describe environmental conditions as they exist at the time environmental analysis is performed. (CEQA Guidelines, § 15125, subd. (a).) The conditions that existed at the time the DSC undertook this analysis is that all short-term water transfers occurring prior to January 1, 2017 would be treated as they were not covered actions, and all short term water transfers occurring thereafter would need to be reviewed to determine whether they are covered actions. (Cal. Code Regs., tit 23, § 5001, subd. (dd)(3).) Thus, the Addendum is incorrect when it repeatedly states that "no change from existing conditions would occur." (Addendum, pp. 32, 35, 38, 40.) This action would make all short-term transfers permanently exempt from "covered action" analysis; this is a significant change from requiring all short-term water transfers after 2016 to undergo review to determine whether they are "covered actions."

3. The Addendum Does Not Adequately Analyze Environmental Impacts

LAND
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Finally, the Addendum has not adequately analyzed environmental impacts on groundwater, water resources, and biological resources.

⁴ See Public Resources Code section 21065 (defining what constitutes a CEQA "Project" subject to CEQA); 40 C.F.R. § 1508.18 (defining a "major federal action" subject to NEPA review).

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i. *Potentially Significant and Unidentified Groundwater Impacts*

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The Addendum relies in part on the *Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report, Final* (Reclamation and SLDMWA 2015 [“LTWT EIS/EIR”]) to find that short term water transfers will cause no significant environmental impacts when mitigation measures are implemented.⁵ (Addendum, p. 33.) The primary groundwater mitigation measure in the LTWT EIS/EIR (GW-1) is insufficient in several ways. First, it requires that measurements at pumping wells be taken only once a month. (LTWT EIS/EIR, p. 3.3-162.) This method fails to detect or correct impacts that occur within one month of pumping, and does not account for the fact that pumping may vary over the month such that a single day of pumping data may not provide an accurate estimate of monthly pumping.

Compounding the inadequacy of the monitoring requirements in the LTWT EIS/EIR, sellers need only report significant impacts to agencies after they have already occurred. (LTWT EIS/EIR, p. 3.3-165.) In addition, if groundwater pumping causes subsidence, sellers are not required to stop pumping. Instead, they must only decide whether their groundwater pumping contributed to the subsidence. (LTWT EIS/EIR, p. 3.3-168.) Even if they determine that groundwater pumping *did* cause subsidence, the EIR’s mitigation measure allows sellers to continue pumping as long as they create a “contingency plan,” the contents of which are not defined by the EIR. (*Ibid.*)

Finally, the model that the LTWT EIR used to measure the baseline groundwater conditions did not account for any groundwater conditions or increases in demand that occurred after 2003. (LTWT EIS/EIR, pp. 3.7-19-20.) Because there is no way that a baseline measured this way can possibly reflect the present state of California’s groundwater, any model using these baselines should not be relied upon to predict future groundwater conditions. Moreover, the Addendum does not incorporate by reference the LTWT EIS/EIR or its mitigation measures, which would be necessary in order to properly rely on the document for purposes of CEQA. (See CEQA Guidelines, §§ 15150, subd. (c) [when an EIR incorporates an earlier environmental document by reference, “the incorporated part of the referenced document shall be briefly summarized where possible” and “[t]he relationship between the incorporated part of the referenced document and the EIR shall be described”], 15152, subd. (g) [when tiering is used, “[t]he later EIR or negative declaration should state that the lead agency is using the tiering

⁵ The adequacy of this document is currently being litigated by the Central Delta Water Agencies and other parties. (*Aqualliance et al v. Bureau of Reclamation et al.*, U.S. District Court, Eastern District of California, 2015, 1:15-cv-00754-LJO-BAM.)

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concept and that it is being tiered with the earlier EIR”]; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 443.

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Thus, the LTWT EIR does not contain mitigation measures sufficient to prevent significant impacts on groundwater.

ii. *Potentially Significant and Unidentified Water Resources Impacts*

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The Addendum also relies in part on the LTWT EIR to find that short term transfers would not result in new or substantially more severe adverse impacts on streamflow patterns, water temperatures, or salinity. (Addendum, p. 32.) Yet, there are several flaws in the LTWT EIR’s analysis. First, it purports to account for any depletion in stream flow that groundwater pumping causes by applying a “streamflow depletion factor.” (LTWT EIS/EIR, p. 3.1-22-23.) It does not, however, explain how it will calculate this factor, and it states that one factor will be used for all transfers, regardless of existing groundwater depletion or the characteristics of the stream. (*Ibid.*) Such a method will not provide an accurate analysis of the effects on streamflow due to groundwater pumping; it will not show when significant effects are occurring. One expert has found that this model improperly quantifies groundwater depletion and significantly overestimates water availability.⁶

The Addendum further states that the transfers would not cause effects to water temperature and salinity because the transfers would be required to comply with existing water quality criteria. (Addendum, p. 33.) History shows, however, that the agencies charged with enforcing those criteria regularly allow violations and routinely permit the relaxation of these standards.⁷ DSC cannot claim that other agencies will prevent a

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⁶ E Pur, Technical Memorandum: Review and Comments to Long-Term Water Transfers Environmental Impact Statement/Environmental Impact Report (EIS/EIR) – Public Draft, (2014), pp.ES-1. Available at: http://www.aqualliance.net/wp-content/uploads/2015/03/EPUR_2014_12_01_Comments_to_Long_Term_Transfers_EIS.pdf

⁷ Complaint: Against SWRCB, USBR and DWR for Violations of Bay-Delta Plan, D-1641 Bay-Delta Plan Requirements, Clean Water Act, Endangered Species Act, Public Trust Doctrine and California Constitution (July 21, 2015) (documenting ongoing violations of salinity and temperature standards in the Delta, as well as continued relaxation of protective standards). Available at: http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/tucp/2015/cspa_jennings072215.pdf

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significant impact when the record shows that other agencies have a history of permitting those impacts to occur.

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iii. *Potentially Significant and Unidentified Biological Resources Impacts*

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The Addendum determines that single-year water transfers will cause no significant environmental impacts because most of them will be required to comply with the 2008 Fish and Wildlife Service and 2009 National Marine Fisheries Service biological opinions ("BiOps"). (Addendum, p. 36.) However, neither of these BiOps evaluated the potential impacts to in-stream flow due to groundwater substitution and resulting effects on these species. The Addendum contemplates that some percentage of short term transfers will provide water through groundwater substitution; DSC must include this factor in determining effects to threatened fish species. Additionally, the 2008 and 2009 BiOps may no longer be sufficient to protect the species. Several species that were the subject of those BiOps have since suffered even further population loss.⁸ Last, threats to the giant garter snake from serial transfers have not been adequately analyzed or disclosed. DSC may not change short term transfers to be permanently exempt from consideration as "covered actions" without fully considering impacts on biological resources.

C. Conclusion

DSC may not use this Addendum as sufficient CEQA review to extend indefinitely short-term water transfers exemption from "covered action" status first because the underlying Delta Plan PEIR is invalid. Further, even if the PEIR were valid and could be relied upon, the Addendum has several fatal flaws. Its Project Description claims that short-term transfers neither recur year after year nor cause cumulative effects within a single year. Both of these contentions are inaccurate. The Addendum further treats indefinitely exempt short-term transfers as the environmental baseline, when the true baseline is a situation wherein such transfers are not automatically exempt. Finally, the Addendum does not adequately analyze environmental impacts with respect to groundwater, water resources, and biological resources, among other impacts. It relies upon the inadequate LTWT EIS/EIR for its groundwater analysis, though that document

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⁸ See <http://www.dfg.ca.gov/delta/data/fmwt/indices/sld002.asp> (showing Delta Smelt population index down 30% between 2008 and 2013); see also <http://www.sacbee.com/news/state/california/water-and-drought/delta/article82144857.html>.

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does not provide sufficient mitigation measures to prevent significant impacts to groundwater. The Addendum's discussion of water resources similarly relies on the LTWT EIR/EIS, even though expert analysis has shown that it underestimates groundwater depletion and overestimates water availability. Finally, the Addendum relies upon 2008 and 2009 BiOps to find that there will not be substantially more severe impacts to biological resources without accounting for the worsening state of special status species that has occurred since the BiOps were issued.

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For the above stated reasons, the Addendum provides insufficient environmental review of the DSC's proposed decision to exempt all short-term water transfers from review under the DRA. Therefore, a full EIR must be prepared.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

ORM/mre

Attachments: Exhibit A, May 18, 2016 Ruling on submitted Matter, Delta Stewardship Council Cases, Sacramento County, 2015, JCCP No. 4758
Exhibit B, Public Comment of Center for Biological Diversity, April 22, 2013

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1 **Organization: Local Agencies of the North Delta (LAND)**

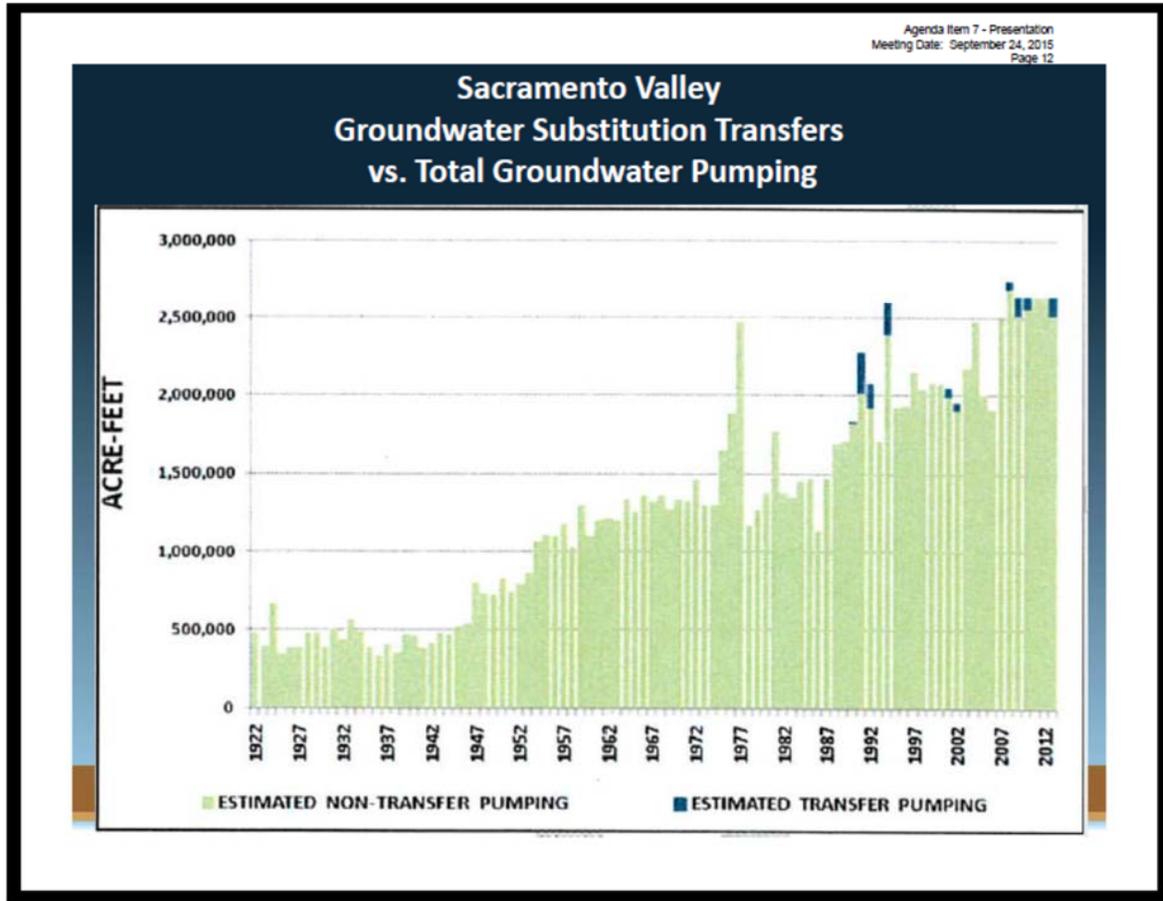
2 **Response to Comment LAND 1** – Comment noted. Please refer to responses to Comments
3 LAND 2 through LAND 13.

4 **Response to Comment LAND 2** - Please refer to Master Response 2.

5 **Response to Comment LAND 3** – Water transfers that would be required to be consistent
6 with the Delta Plan would only involve water transfers of greater than one year in duration
7 between willing sellers and/or buyers located within the Sacramento-San Joaquin Rivers Delta or
8 Suisun Marsh or cross-Delta water transfers. The proposed regulatory amendment (Proposed
9 Project) does not involve changes in Delta Plan regulations with regard to these longer term water
10 transfers, however. Accordingly, they are not the subject of this Addendum. The majority of
11 previous water transfers that have occurred in whole or in part within the Sacramento-San
12 Joaquin Rivers Delta or Suisun Marsh have involved cross-Delta water transfers and have used
13 the SWP and/or the CVP conveyance facilities. Cross-Delta water transfers that use SWP and/or
14 CVP facilities must comply with the 2008 USFWS and 2009 NMFS biological opinions which
15 limit the timing (July 1 through September 30) and volume (up to 600,000 acre-feet in drier water
16 year types and 360,000 acre-feet in other water year types) of transferred water. As summarized
17 in Figure 1 of this Addendum, information prepared by DWR in 2013 and 2016 indicates that the
18 cross-Delta water transfers were generally less than 5 percent of the Delta exports since 2000
19 except in 2014 when the water transfers were 7 percent of the total SWP and CVP Delta exports.
20 The total amount of water transfers during this time frame ranged from 0 to 420,000 acre-
21 feet/year. This Addendum assumes that these conditions will continue in the future under the
22 Proposed Project regardless of whether individual water transfers in sequential years are similar
23 or substantially different.

24 This Addendum also relies on and makes reference to the slide presentation by DWR at the
25 September 24, 2015 Council meeting. Slide Number 12 (reproduced below) indicated that
26 groundwater withdrawals in the Sacramento Valley have increased substantially over the past 60
27 years; however, the amount of groundwater withdrawals associated with groundwater substitution
28 transfer methods declined in the past 10 years. While increased groundwater withdrawals may be
29 related to reduction in groundwater elevations in portions of the Sacramento Valley, as shown in
30 Figure 3-10 of the Delta Plan, overall groundwater elevations in the Sacramento Valley have been
31 relatively stable over the past 40 years.

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It is recognized that except for the ongoing Lower Yuba River Accord long-term water transfer, most of the number of historic water transfers are single-year water transfers. As discussed by representatives of DWR, SWRCB, and water users at the September 24, 2015 Delta Stewardship Council meeting, single-year water transfers occur more frequently than long-term water transfers because of the need to be able to predict, in any given year, SWP and CVP water deliveries or water rights water stored in local reservoirs before the spring months. In the early years of a dry period, water sellers may be more likely to sell water than in subsequent dry years when sellers become concerned about their local water supplies. In wetter years, many water purchasers have access to less expensive water supplies and/or do not have adequate reservoir capacity to store the transferred water. All of these factors result in the more frequent use of single-year water transfers instead of long-term water transfers, which are based on specified volumes of water to be sold and purchased throughout unknown hydrologic conditions over a long-term period. However, as described by representatives of DWR and SWRCB at the September 24, 2015 Council meeting, single-year water transfers vary according to the locations of water sellers, methods to provide the transfer water, pattern and timing of cross-Delta water transfers depending upon the sellers and purchasers schedules, and the volume of water that each seller is willing to sell during each year. Therefore, because the circumstances of such transfers are different each year, the SWRCB does not consider similar water transfers that occur in consecutive years as recurring transfers.

Response to Comment LAND 4 – The Proposed Project does not involve any changes with regard to how and whether CEQA is required for single-year water transfers, nor have single-year

1 water transfers ever been considered to be covered actions for purposes of demonstrating
 2 consistency with the Delta Plan. The Council has jurisdiction only over actions that occur in
 3 whole or in part in the Delta. Water transfers that occur in whole or in part in the Delta primarily
 4 would require use of State Water Project, Central Valley Project, or other public agency facilities.
 5 Private water transfers generally occur in the Sacramento and San Joaquin valleys; however, the
 6 Council does not have jurisdiction over water transfers that do not occur in whole or in part in the
 7 Delta.

8 **Response to Comment LAND 5** – The Council determined that single-year cross-Delta
 9 and/or in-Delta water transfers occurring before December 31, 2016 would not have a significant
 10 adverse impact on the environment for the reasons stated in Section 3.4 of the Delta Plan PEIR,
 11 or on the coequal goals due to no significant adverse impacts following implementation of
 12 mitigation measures on Delta water supplies or Delta environment. As a result of this
 13 determination, single-year water transfers are not covered actions within the meaning of Water
 14 Code section 85057.5(a)(4) and are not subject to the covered action process; therefore,
 15 determination of consistency with the Delta Plan is not required (the covered action process).
 16 Accordingly, the existing conditions considered in this Addendum are that single-year cross-Delta
 17 and/or in-Delta water transfers are not covered actions, nor have they ever been covered actions.
 18 The Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water
 19 transfers from the covered action process; therefore, no change from existing conditions would
 20 occur. With regard to potential changes in existing conditions, please refer to Master Response 3.

21 **Response to Comment LAND 6** – This Addendum takes advantage of prior work by other
 22 agencies on environmental topics implicated by the Proposed Project. The Addendum
 23 summarizes relevant substantial evidence and conclusions reached in the pertinent environmental
 24 and technical documents which are cited in the Addendum. For example, the Addendum relies on
 25 information presented in the 2015 *Department of Water Resources and Bureau of Reclamation*
 26 *Water Transfer White Paper Requirements* concerning current regulatory processes. Please refer
 27 to Master Response 1.

28 **Response to Comment LAND 7** – All cross-Delta water transfers that involve SWP and/or
 29 CVP facilities need to comply with the current and future criteria presented in the annual *Water*
 30 *Transfer White Paper*. The historic and current *Water Transfer White Paper* identify the annual
 31 Stream Flow Depletion Factor based upon annual calculations. As described in Section 4 of the
 32 Addendum, DWR is preparing a model that could be used to project the Stream Flow Depletion
 33 Factor for a longer hydrologic period than one-year. However, until the model is completed, the
 34 *Water Transfer White Paper* will identify the annual Stream Flow Depletion Factor.
 35 Incorporation of the Stream Flow Depletion Factor criteria by cross-Delta water transfer sellers
 36 that use SWP and/or CVP facilities could be considered to be a mitigation measure for that water
 37 transfer if not included in the project description of the water transfer. Incorporation of the Stream
 38 Flow Depletion Factor is not a mitigation measure for implementation of the Proposed Project
 39 addressed in this Addendum.

40 **Response to Comment LAND 8** – Operations of the SWP facilities by DWR and the CVP
 41 facilities by Reclamation related to the SWRCB flow and water quality requirements are not
 42 subject to review by the Council, and were only approved following completion of environmental
 43 reviews and consultation with USFWS and NMFS. During recent drought years, DWR and
 44 Reclamation submitted application to the SWRCB for changes in operations in accordance with
 45 SWRCB Decision 1641 under annual Temporary Urgency Petitions. The allowed changes in
 46 operations were reviewed by USFWS and NMFS in accordance with the existing biological
 47 opinions. The existing conditions considered in this Addendum assume continued operation of
 48 the SWP and CVP in accordance with the SWRCB criteria, including use of Temporary Urgency

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1 Petitions during emergency situations such as the recent drought; and in accordance with the
2 USFWS and NMFS biological opinions, including limitations on water transfers. Therefore,
3 water-based existing conditions in the Delta Plan PEIR continue to be appropriate for
4 assumptions under this Addendum.

5 **Response to Comment LAND 9** – Operations of the State Water Project facilities by the
6 Department of Water Resources and the Central Valley Project facilities by Bureau of
7 Reclamation related to the 2008 USFWS and 2009 NMFS biological opinions requirements are
8 not subject to review by the Council. The 2008 USFWS and 2009 NMFS biological opinions
9 evaluated the effects of the Project Description for the long-term coordinated operation of the
10 SWP and CVP, including the water transfers (see pages 128 and 129 in the 2008 USFWS
11 biological opinion; see pages 123 through 127 of Appendix 1 of the 2009 NMFS biological
12 opinion). The biological opinions did not analyze water supply methods for those transfers.
13 However, all cross-Delta water transfers that involve State Water Project and/or Central Valley
14 Project must evaluate environmental effects of providing the water supply to the water transfer, as
15 described in the Addendum, including effects on listed species in the vicinity of the water sellers.

16 While the Proposed Project will continue the status quo under the existing conditions; and single-
17 year cross-Delta water transfers will continue to be excepted from the definition of a “covered
18 action,” single-year cross-Delta water transfers will continue to be regulated by SWRCB, DWR,
19 and Reclamation.

20 **Response to Comment LAND 10** – Please refer to Master Response 2.

21 **Response to Comment LAND 11** – Please refer to response to Comment LAND 3.

22 **Response to Comment LAND 12** – Please refer to response to Comment LAND 6.

23 **Response to Comment LAND 13** – Please refer to response to Comment LAND 9.

24 **Response to Comment LAND 14** – As described in responses to Comments LAND 2
25 through LAND 13 and Master Responses 1 and 3, this Addendum provides an appropriate CEQA
26 analysis of the Proposed Project.

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1 **6.2.7** *Organization: Pacific Coast Federation of Fishermen’s Associations and*
2 *Institute for Fisheries Resources (PCFFA/IFR)*

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11.207.01

June 13, 2016

VIA EMAIL AND U.S. MAIL

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peiraddendumsingle.yearwatertransferscomments@deltacouncil.ca.gov

Re: Comments of PCFFA and IFR on the Draft Program Environmental Impact
Report Addendum

Delta Stewardship Council Members:

The Pacific Coast Federation of Fishermen’s Associations (“PCFFA”) and Institute for
Fisheries Resources (“IFR”) appreciate the opportunity to comment on the Delta Stewardship
Council’s (“Council’s”) Draft Program Environmental Impact Report (“DPEIR”) Addendum.
We respectfully request that you revise both the DPEIR and the Addendum to bring them into
compliance with the Delta Reform Act and CEQA, as discussed below.

PCFFA/
IFR 1

I. INTRODUCTION

The largest and most productive estuarine system on the west coast of North and South
America – the Sacramento-San Joaquin River Delta – is collapsing for two principal reasons.
First, the Central Valley Project (“CVP”) and the State Water Project (“SWP”) have diverted too
much of the Delta’s fresh water flows. Second, agricultural diverters have discharged too much
contaminated agricultural run-off and return flows into the Delta. These dual threats to the
Delta’s health have grown steadily over the past five decades. The resulting environmental
devastation has pushed the Delta’s imperiled fisheries to the brink of extinction. PCFFA and IFR
submitted extensive comments on February 1, 2012, documenting these threats and the fish
species imperiled by them, and hereby incorporate those comments. See Attachment 1.
Unsustainable levels of diversions from the Delta, diversions which are facilitated by the
Addendum, decrease fresh water flows and increase salinity and the concentration of herbicides,
pesticides, and toxic agricultural run-off in the Delta.

PCFFA/
IFR 2

In 2009 the California Legislature declared in the Delta Reform Act (“DRA”) that “[t]he
Sacramento-San Joaquin Delta watershed and California’s water infrastructure are in crisis and
existing Delta policies are *not sustainable*.” Water Code § 85001(a), emphasis added. The

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Legislature found that “[r]esolving the crisis requires *fundamental reorganization* of the state’s management of Delta watershed resources.” *Id.*, emphasis added. The Legislature declared that “the Delta’ . . . is a critically important natural resource for California and the nation. It serves Californians concurrently as both the hub of the California water system and the most valuable estuary and wetland ecosystem on the west coast of North and South America.” Water Code § 85002. The Legislature therefore resolved “to provide for the sustainable management of the Sacramento-San Joaquin Delta ecosystem, to provide for a more reliable water supply for the state, to protect and enhance the quality of water supply from the Delta, and to establish a governance structure that will direct efforts *across state agencies* to develop a *legally enforceable* Delta Plan.” Water Code § 85001(c), emphasis added.

PCFFA/
IFR 2
(cont)

The Legislature adopted two principal overarching policies to protect and restore the Delta. The first comprises eight “policy objectives” designed to restore and enhance the Delta’s ecological health while maintaining sustainable water usage. Water Code § 85020(a)-(h). The second was a new State policy to *reduce* diversions of water from the Delta because it recognized that the existing level of diversions was incompatible with restoration and enhancement of the Delta’s ecosystem, and thus not a “sustainable” management scheme for the Delta’s imperiled resources. Water Code § 85021. The Legislature also announced that

[t]he longstanding constitutional principle of reasonable use and the public trust doctrine *shall be the foundation of state water management policy* and are particularly important and applicable to the Delta.

Water Code § 85023, emphasis added.

These principles and objectives represent the Legislature’s commitment to preserving the Delta as a “distinct and valuable natural resource.” Water Code § 85022(c)(1), (c)(3). To accomplish this task, the Legislature understood that strong and specific measures were necessary to break the management impasse that had pushed the Delta into a calamitous downward spiral. Water Code §§ 85001(C), 85211, 85302(D) and (e), 85300(d)(1)(A). In particular, these measures “shall . . . [i]nclude *quantified or otherwise measurable targets* associated with achieving the objectives of the Delta Plan” and “*quantitative or otherwise measurable assessments* of the status and trends . . . of . . . [t]he health of the Delta’s estuary and wetland ecosystem for supporting viable populations of Delta fisheries and other aquatic organisms.” Water Code §§ 85308(b) and 85211, emphasis added; *see also* Water Code §§ 85001(c), 85084.5, 85086(c)(1) and (e), 85302(c).

The Delta Plan did not comply with these statutory mandates. This Addendum to a deficient DPEIR is a violation of the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.* Judge Michael P. Kenny, of the Sacramento County Superior Court, has issued a Ruling holding that the Delta Plan is deficient. *Delta Stewardship*

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Council Cases (May 18, 2016) Ruling on Submitted Matter: Petitions for Writ of Mandate, Bifurcated Proceeding on Statutory Challenges (“Delta Plan Ruling”), *see* Attachment 2.¹ In that Ruling, Judge Kenny adopted PCFFA and IFR’s argument that the Delta Plan must be revised to “[i]nclude quantified or otherwise measurable targets associated with achieving reduced Delta reliance, reduced environmental harm from invasive species, restoring more natural flows, and increased water supply reliability, in accordance with the Delta Reform Act.” Delta Plan Ruling p. 26. Thus, because the Superior Court has held that the Delta Plan itself is deficient, there is no CEQA “project” as required by Public Resources Code section 21061. Consequently, Judge Kenny may decertify the PEIR. Accordingly, an addendum to the existing PEIR for the invalid Delta Plan is inappropriate at this time.

PCFFA/
IFR 2
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The Addendum is also deficient under the Delta Reform Act. For example, it does not explain how single-year water transfers help to accomplish the coequal goals of the Delta Reform Act. According to the Addendum itself, “[s]ingle-year water transfers do not provide long-term water supply reliability.” Addendum p. 20. And nowhere does the Addendum conclude that such transfers provide concrete and enduring benefits for fish, wildlife, and other public trust uses. Thus, the Addendum’s exemption of single-year water transfers from Delta Plan covered action review neither provides “a more reliable water supply for California” nor protects, restores, and enhances the Delta ecosystem. Water Code § 85054.

PCFFA/
IFR 3

Throughout the Addendum the Delta Reform Act’s mandates to the Council are ignored in favor of management criteria supplied by other agencies under other implementing statutes and regulations. But the Council is supposed to set its own criteria based on the Delta Reform Act’s coequal goals. In the Addendum, it has failed to do so.

For each of these reasons and as detailed below, the Council must revise and recirculate the DPEIR, including a full evaluation of its new decision to exempt single year water transfers, to comply with its statutory duties and with Judge Kenny’s eventual final order implementing the Delta Plan Ruling.

PCFFA/
IFR 4

II. THE DELTA PLAN RULING REQUIRES A REVISION OF THE DELTA PLAN THAT WILL INFORM AND GOVERN SINGLE-YEAR WATER TRANSFERS.

PCFFA/
IFR 5

Judge Kenny grasped the significance of the Delta Plan’s failure to comply with the Delta Reform Act, and especially the DRA’s mandate for quantified standards, which will require far-reaching improvements in the Delta Plan that clearly moot the existing PEIR. That is why

¹ Because Judge Kenny has not yet issued a final ruling, PCFFA and IFR reserve the right to comment further based on the Court’s final ruling.

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Judge Kenny ruled that “the CEQA challenges currently pending in this coordinated proceeding are moot.” Delta Plan Ruling p. 73. The quantified standards required by Judge Kenny’s ruling for the four DRA objectives found lacking will result in a revised Delta Plan that will be far more environmentally informed, focused, and detailed. Thus, the revised Delta Plan will clearly require new CEQA review.

PCFFA/
IFR 5
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The Delta Reform Act provides that “[t]he following subgoals and strategies for restoring a healthy ecosystem shall be included in the Delta Plan . . . (4) Restore Delta flows and channels to support a healthy estuary and other ecosystems.” Delta Plan Ruling p. 14 (quoting Water Code §85320(e)(4)). Thus, the revised Delta Plan will have to include quantified and measurable targets to achieve such flows that will govern and inform any decision on single-year water transfers. *Id.* at 15. Water supply reliability must also be subject to quantified and measurable targets that will govern and inform any decision on single-year water transfers. *Id.* Likewise, the revised Delta Plan will have to include quantified and measurable targets to achieve reduced environmental harm from invasive species, which will also govern and inform any decision on single-year water transfers. *Id.* at 14. And finally, the revised Delta Plan must include a requirement that agencies “reduce reliance by [a] measurable amount,” and must “include quantified targets to achieve this objective,” which will also, of necessity, govern and inform any decision on single-year water transfers. *Id.* at 9.

PCFFA/
IFR 6

According to the Delta Plan Ruling, temporary water transfers should not be treated as routine and are not exempt from the Delta Plan. “The Court has reviewed the record and finds no evidence suggesting that temporary water transfers are ‘[r]outine maintenance and operation of the State Water Project or the federal Central Valley Project.’” Delta Plan Ruling p. 51. “The fact that such transfers are exempt from CEQA does not require their exemption from the Delta Plan.” *Id.* “Petitioners have not identified any legislative history or other authority that section 85031 prohibits regulation concerning temporary water transfers.” *Id.*

PCFFA/
IFR 7

III. THE ADDENDUM IS IMPERMISSIBLE BECAUSE THE DELTA STEWARDSHIP COUNCIL MUST DEVELOP NEW STANDARDS.

PCFFA/
IFR 8

An Addendum is impermissible here because the Council must develop new standards as a result of the Delta Plan Ruling. These new standards mean that at a minimum, a subsequent PEIR or a supplement to the PEIR is required, not an addendum. 14 C.C.R. (“CEQA Guidelines”) §§ 15162, 15163, 15164.

The “heart of CEQA” is the environmental impact report. *Citizens for Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564. “The EIR, with all its specificity and complexity, is the mechanism prescribed by CEQA to force informed decision making and to expose the decision making process to public scrutiny.” *California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 978, quoting *Planning & Conservation League v.*

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Department of Water Resources (2000) 83 Cal.App.4th 892, 910.

PCFFA/
IFR 8
(cont)

Under the CEQA Guidelines, section 15164, an addendum to an EIR is appropriate only where “some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.” Section 15162(1) states that a subsequent EIR must be prepared if “[s]ubstantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.”

As previously discussed, the revised Delta Plan will have to include quantified and measurable targets to achieve adequate flows, water supply reliability, reduced environmental harm from invasive species, and reductions in reliance on Delta flows. Because the Delta Plan is a programmatic project for purposes of CEQA, the setting of newly quantified and measurable targets such as these constitute substantial changes in the proposed project and implicate just the sort of new significant environmental effects or increase in previously identified effects contemplated by the CEQA Guidelines. The mere fact that the Delta Plan must prescribe specific, quantified targets rather than a general target will require far more detailed analysis of impacts and their mitigation than is provided in the existing PEIR.

Moreover, section 15162(2) states that a subsequent EIR must be prepared if “[s]ubstantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.” The additional quantified and measurable targets likewise constitute substantial changes to the circumstances of the project, as these targets constitute the yardstick by which environmental impacts will be assessed. Such changed circumstances also implicate new significant environmental effects or an increase in the severity of previously identified effects.

Finally, section 15162(3) states that a subsequent EIR must be prepared if:
New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible

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- would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

PCFFA/
IFR 8
(cont)

The Council does not have before it a Delta Plan which satisfies the requirements of the DRA for enforceable and quantifiable targets. And it certainly cannot claim that the specific targets that Judge Kenny has ordered be added to the Delta Plan will not trigger any of these criteria. Because a subsequent EIR must be prepared anyway, the Council’s attempt to simultaneously prepare an addendum for single-year transfers is impermissible segmentation – carving off a piece of the project and calling it small enough not to have a significant impact. This violates CEQA. The Council must include single-year transfers in its supplemental EIR and consider the impacts of such transfers along with other new impacts.

IV. THE DELTA PLAN MUST INCLUDE ENFORCEABLE WATER QUALITY TARGETS, WHICH PRECLUDES A SIMPLE WAIVER FOR SINGLE-YEAR WATER TRANSFERS.

PCFFA/
IFR 9

The Delta Plan contained *no* enforceable water quality targets and therefore violated the Delta Reform Act’s mandate that the Delta Plan *shall* include measures to meet the objective of improved water quality, including measurable or quantified targets. §§ 85302(d)(3), (e)(5), 85308(b).

Indeed, *the Council itself* acknowledged that single-year transfers were *contrary* to the Delta Reform Act’s goal of protecting, restoring, and enhancing the Delta ecosystem. Though the Delta Reform Act contains its own set of exemptions (in section 85057.5(b)), the Council took it upon itself to create an additional exemption for “[t]emporary water transfers of up to one year in duration.” 23 CCR § 5001(dd)(3). The Council stated that it “understands that water transfers may have a significant impact on the Delta’s ecosystem, especially if these single-year transfers are repeated over consecutive years as a means to circumvent the CEQA review process for multi-year . . . transfers.” See Attachment 4, Draft Master Responses to Comments Received on the Proposed Regulation during the Public Review Periods, p. 11 (Delta Plan Ruling AR E1083). But the Council stated that “[a]t this time, the Council is not aware that single-year transfers are conducted in this manner” and “[a]ccordingly . . . determined that one-year water transfers do not have a significant impact on the coequal goals.” *Id.*

Strong evidence remains that the Council’s premise is mistaken. The Center for Biological Diversity provided the Council with detailed evidence that many one-year transfers

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are in fact being repeatedly approved in a serial manner over consecutive years. See Attachment 3 (Delta Plan Ruling AR K12475-12477). The preexisting CEQA exemption does not reflect a legislative determination that this activity is unlikely to harm the environment; to the contrary, “it is incorrect to assume that harmony must exist between CEQA’s general purpose and the purposes of each of its statutory exemptions. The exemptions reflect a variety of policy goals.” *Del Cerro Mobile Estates v. City of Placentia* (2011) 197 Cal.App.4th 173, 184 (quotation omitted).

PCFFA/
IFR 9
(cont)

Water transfers harm the environment because they remove water from the Delta and because the transferred water is frequently applied to lands that are contaminated by selenium, such as the land in the western San Joaquin Valley including that within Westlands Water District, which results in toxic return flows – a phenomenon the Delta Plan acknowledges. Delta Plan p. 228 (“[t]he major source of selenium loading . . . is the San Joaquin River, which receives selenium-laden agricultural drainage water from the western San Joaquin Valley”); see also Attachment 3 (serial “one-year” transfers are to Westlands, Delta Plan Ruling AR at K12476-12477). Exempting these water transfers from the Delta Plan’s consistency review is clearly contrary to the Delta Reform Act’s purposes. The Legislature knows how to create statutory exemptions for one-year water transfers and it knows how to exempt activities from the coverage of the Delta Reform Act. §§ 1729, 85057.5(b). It *declined* to exempt one-year water transfers from the *Delta Reform Act*. The Council’s attempt to smuggle such an exemption in the back door is plainly contrary to that law’s coequal goal of protecting, restoring, and enhancing the Delta environment. By failing to include regulatory water quality standards and by exempting activities that will harm water quality by removing it from the coverage of the Delta Plan, the Council violated the Delta Reform Act. § 85302(d)(3), (e)(5).

V. THE ADDENDUM FAILS TO PROPERLY EVALUATE THE IMPACTS OF SINGLE-YEAR WATER TRANSFERS AFTER 2016.

PCFFA/
IFR 10

The premise of the Addendum is that single-year water transfers after 2016 “would not result in new or substantially more severe environmental effects requiring major revisions to the Delta Plan PEIR.” Addendum p. 1; see also Addendum p. 32-74 (reiterating the same rationale, that “no change from existing conditions would occur,” for each impact category). Yet the Addendum does not evaluate any impacts from single-year water transfers after 2016, instead relying on the insufficiently detailed Delta Plan’s determination that an exemption for one year of water transfers would have no significant impact. The Delta Plan itself acknowledged “the absence of a comprehensive, programmatic study of water transfers’ environmental effects, which could provide a consistent, more reliable, and less time-consuming basis for assessing effects of water transfer on surface water, groundwater, wildlife habitat, and local economies.” Addendum p. 12. The Delta Plan’s admitted failure to conduct this omitted study to rectify this informational void violates CEQA.

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The Council conceded that it was possible that single-year water transfers could have significant impacts, either by themselves or as cumulative impacts. Addendum p. 3. Yet the Addendum dismissed these potential impacts, stating that the State Water Resources Control Board (“SWRCB”) and California Department of Water Resources (“DWR”) had “found that recurring transfers may exist as a theoretical concept but not as a practical reality.” The Council did not do any of its own analysis, instead relying solely on SWRCB and DWR statements and reports. Furthermore, the Addendum’s rationale that “[b]ecause these factors [amount, party, and method] change each year, there does not appear to be any pattern to the recurring use of the same methods or geographic locations to provide transfer water under single-year water transfers.” Addendum p. 3.

PCFFA/
IFR 10
(cont)

Essentially, the Addendum claims that similar water transfers do not equate to recurring water transfers, but fails to provide the analysis and underlying data on which this determination is based. Addendum p. 10 (“although the same entities may participate in either providing or purchasing water in consecutive years, the methods to make the water available, the parcels of land that provides the transferred water, and the parcels of land that use the transferred water are different each year”). The water volumes this exemption ignores are huge: 419,000 acre-feet were transferred using CVP facilities and single-year transfers in 2014, and 300,602 acre-feet in 2015. Addendum p. 9. The Addendum never states what percentage or volume of single-year water transfers were not approved by DWR and Reclamation, stating that “not all were approved in 2014 or 2015.” Addendum p. 9. These are not small amounts, and without further information as to the entities which use such transfers, the percentage of such transfers approved, and the amounts used, especially in years other than 2014 and 2015, it is impossible for the public or decision makers to make an informed decision as to whether recurring patterns do in fact exist.

The Addendum does not provide detailed information on what amount of water is actually transferred through single-year water transfers and what impacts such transfers have. Thus, a supplemental or subsequent EIR must be undertaken, and it must include an actual quantification of the “small percentage of cross-Delta single-year water transfers [that] are not covered by SWRCB, DWR, and/or Reclamation,” or are not covered by CEQA review. Addendum p. 5.

The Addendum’s inexcusable failure to reveal the quantities of water transferred – and their resulting environmental impacts – is a blatant violation of CEQA. This failure to quantify is rife throughout the Addendum, as exemplified by the oft repeated statement that “[t]he number of single-year water transfers that occur within the Delta that do not need to analyze water quality conditions because they do not require approvals by the SWRCB, DWR, or Reclamation would be minimal.” Addendum p. 33, 34-74 (no explanation of the word “minimal”). The bare statement that “most of the water transfers would be required to avoid substantial adverse impacts on biological resources” is meaningless without quantification of the word “most.”

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Addendum p. 72. Such vague assertions that single-year water transfers are “insignificant” or are not “anticipated” to be significant, without further quantification, are insufficient to support rational decision making under CEQA. *Id.*

PCFFA/
IFR 10
(cont)

Groundwater management is also insufficiently documented and quantified, in spite of the Addendum’s acknowledgment that groundwater use is increasing. Addendum p. 73. Further, usage patterns are changing as “potential cumulative effects due to climate change . . . could result in a greater need for water transfers as well as less surface water and groundwater supplies.” *Id.* This insufficient documentation is demonstrated by the “new modeling tool to more accurately estimate the streamflow depletion factor,” and the general “groundwater modeling improvements” that are currently being developed by DWR and Reclamation. The fact that such new tools and improvements are needed is a sign that the conclusions presented by DWR and Reclamation, and relied upon by the Addendum, were based on suspect data and may be inaccurate.

The Addendum fails to evaluate the discharge of contaminated wastewater from agricultural sources. Addendum 48-52. Many acres of agricultural land in California that utilize Delta flows are contaminated with salts including selenium and other heavy metals, as well as pesticides and other pollutants. Yet the Addendum fails to address the impact of single-year water transfers to these lands and the contaminated runoff that the application of Delta flows to these lands will cause.

PCFFA/
IFR 11

The data the Addendum does present is confusing and fractured. For instance, it states that “7 water transfers (79 percent of the single-year water transfers conveyed through the SWP facilities) were not reviewed by the SWRCB, and required a CEQA analysis for DWR approval.” Addendum p. 13. Yet it then concludes that 6 water transfers were reviewed, but that these 6 only constitute 21 percent of the transfers conveyed through SWP facilities. How can 7 equal 79% of the total in 2014, while 6 equals 21 percent? *Id.* Similarly, 1 transfer in 2015 equals 10% of the SWP transfers, while 4 transfers equal 90 percent? *Id.* It also does not appear that the Council knows how much water was actually transferred in 2014, let alone other years. *Id.* (statement that exempt water transfers “included *at least* a 5,000 acre-foot water transfer,” emphasis added). These discrepancies must be corrected and all single-year water transfers not overseen by DWR or SWRCB must be quantified.

PCFFA/
IFR 12

The Addendum fails to sufficiently examine groundwater pumping, in spite of evidence presented to the Council of “reductions in observed stream flow and concurrent increased groundwater pumping in the Sacramento Valley.” Addendum p. 32. According to the Addendum itself “[s]pecific sources of the water transfers have not been compiled in a uniform manner to determine methods used for all water transfers.” Addendum p. 30. Indeed, the Addendum fails to examine subsidence impacts altogether. Instead, any analysis of these impacts is punted to some future date when they will have already occurred. Addendum p. 19. This fails

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IFR 13

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to inform the public and decision makers of the project’s impacts before project approval and thus violates CEQA.

PCFFA/
IFR 13
(cont)

Furthermore, regulatory and environmental conditions in the Delta have changed significantly, and continue to change. Thus, the information relied upon by the Addendum is out of date, and upstream water agencies recommend that “Delta Plan polices should reflect recent changes in regional water resources management which occurred during the drought and could affect future single-year water transfers.” Addendum p. 7. The Addendum has not done so.

PCFFA/
IFR 14

It should be possible for the Council to find a form of regulation that allows time-sensitive transfers without completely exempting single-year water transfers from Council oversight. The Addendum acknowledges that single-year water transfers already need a 6-month lead time, time enough for the Council to conduct *some* review even if it is determined that full review is too time consuming. Addendum p. 6 (“transfer proposals need to be submitted to DWR or Reclamation for regulatory review in January to allow for cross-Delta water transfers in July through September”). The Council was given the responsibility to review covered actions under the DRA, which did not exempt single-year water transfers. The Addendum, therefore, should have presented another alternative beside either exempting such transfers altogether or putting them through the same process as other covered actions. Expedited approvals should have been considered, as modeled by the other water agencies in California who are required to deal with single-year water transfers. Yet no such alternative was considered. Instead, the Addendum waives all oversight without any protective conditions. Addendum p. 5.

PCFFA/
IFR 15

It may even be possible for single-year water transfers to be beneficial to the coequal goals of the DRA if conducted in a responsible manner. However, the decision to forgo oversight over single-year water transfers abdicates the Council’s responsibility to ensure that the coequal goals are furthered.

VI. THE ADDENDUM VIOLATES THE CENTRAL VALLEY IMPROVEMENT ACT AS WELL AS THE COEQUAL GOALS.

PCFFA/
IFR 16

Congress enacted the Central Valley Project Improvement Act (“CVPIA”), Public Law No. 102-575, 108 Stat. 4600, Title XXXIV, in 1992 to reduce the adverse environmental impacts of CVP operations. CVPIA §§ 3402(a)-(b), 3406(b). The CVPIA fundamentally altered the operation of the CVP because it required that water be dedicated for fish and wildlife. Since its 1992 passage, however, the Sacramento River winter and spring run Chinook salmon, Central Valley steelhead, North American green sturgeon and Delta smelt have been driven perilously

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close to extinction² as their habitat has been degraded by excessive Delta exports by the CVP and the SWP.

PCFFA/
IFR 16
(cont)

The CVPIA set criteria for water transfers. First, CVP water was defined as “all water that is developed, diverted, diverted stored, or delivered by the Secretary in accordance with the statutes authorizing the Central Valley Project and in accordance with the terms and conditions of water rights acquired pursuant to California law.” CVPIA § 3403(f). This broad definition includes nearly any water that gets moved from one place to another via the CVP. The CVPIA then states that CVP water transfers are only allowed under the terms of section 3405 of the CVPIA for “water service or repayment contracts, water rights settlement contracts or exchange contracts.”

Such transfers are meant to facilitate the movement of water from one party to another without increasing the total amount of water consumed. Thus, section 3405 of the CVPIA limits transfers “to water that would have been consumptively used or irretrievably lost to beneficial use during the year or years of the transfer.” CVPIA § 3403(a)(1)(I). Without this protection, the water transfer system would be used during droughts to increase the total amount of water consumed by the system as a whole, a result clearly in contravention of fish and wildlife protections contained in the CVPIA as well as other state and federal laws and regulations.

Yet the single-year water transfers contemplated by the Council here specifically allow sellers to replace transferred water through ground water substitution. As a result, the Addendum is by definition contrary to the CVPIA and any other statute or regulation which has as its goal the reduction of water consumption during times of scarcity. *See, e.g.,* Water Code § 85021. The Addendum ignored comments that “single-year water transfers appeared to be used as a response to emergency conditions that could have been avoided if water supplies has been managed over a multiple year period rather than annually.” Addendum p. 10. Indeed, it was pointed out that “water transfers during droughts could result in adverse impacts to Delta fisheries because the flow patterns in the rivers would be altered at a time when fish are moving

² Winter run Chinook salmon were listed as threatened in 1990 (55 Fed. Reg 46515) and endangered in 2005 (70 Fed.Reg. 37160). Their critical habitat was designated in 1993. 58 Fed Reg. 33212. Spring run Chinook salmon were listed as threatened, and their critical habitat was designated, in 2005. 70 Fed.Reg. 37160, 52488. Central Valley steelhead were listed as threatened in 1998 (63 Fed.Reg. 13347) and their critical habitat was designated in 2005 (70 Fed.Reg. 52488). The Southern Distinct Population Segment (“DPS”) of North American green sturgeon was listed at threatened in 2006 (71 Fed.Reg. 17757) and its critical habitat was designated in 2008 (73 Fed.Reg. 52084). Delta smelt were listed as endangered in 1993 (58 Fed.Reg. 12854) and their critical habitat was designated in 1994 (59 Fed.Reg. 65256).

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from the more saline western Delta marshes into rivers where freshwater occurs.” Addendum p. 10-11. Transfers based on groundwater substitution – or substitution from any other source – violate Congress’ intent that transfers involving CVP water would not result in any total increase in consumption, regardless of any mitigation involving in-stream or groundwater replacement.

PCFFA/
IFR 16
(cont)

Furthermore, the CVPIA mandates that no transfer be approved unless “such transfer will have no significant long-term adverse impacts on groundwater conditions in the transferor’s service area.” The Council has declined to make any such determination, and the existing systems upon which the Addendum relies are built around monitoring to evaluate actual effects on groundwater levels combined with subsequent measures. Such post hoc evaluations clearly violate the CVPIA’s requirement that it be determined, ahead of any approval of such transfers, that any water transfer will have no significant long-term effect on the underlying basins. Future mitigation does not ensure that there will be no present harm.

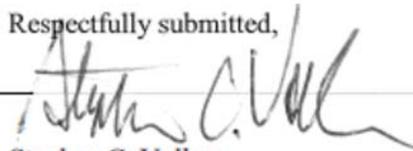
Finally, the CVPIA mandates the creation of an anadromous fish restoration program which must double the populations of certain specified fish species. Higher flows are required to meet this goal, significantly higher than the flows that are currently mandated. As this water must come from somewhere, enabling single-year water transfers that will compete directly with water purchases that must be made to comply with the flows necessary to double fish populations is counter productive. The Addendum fails to evaluate the impact of single-year water transfers on the goal of doubling fish populations, in violation of the CVPIA.

VII. CONCLUSION

PCFFA/
IFR 17

For each of the foregoing reasons, the DPEIR and the Addendum fail to comply with the Delta Reform Act and CEQA. Accordingly, the Council must withdraw the Addendum and prepare an adequate Delta Plan and EIR that comport fully with the Delta Reform Act and CEQA.

Respectfully submitted,



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Attorney for Pacific Coast Federation of Fishermen’s
Associations and Institute for Fisheries Resources

SCV:taf

Enclosures: As stated.

1 **Organization: Pacific Coast Federation Of Fishermen’s Associations And Institute For**
2 **Fisheries Resources (PCFFA/IFR)**

3 **Response to Comment PCFFA/IFR 1** – Comment noted. Please refer to responses to
4 Comments PCFFA/IFR 2 through PCFFA/IFR 15.

5 **Response to Comment PCFFA/IFR 2** – Please refer to Master Response 2.

6 **Response to Comment PCFFA/IFR 3** – This comment is related to the proposed regulatory
7 amendment (Proposed Project) and its effects on the Delta Reform Act coequal goals. The
8 Proposed Project would continue to exempt single-year water transfers from the covered action
9 process; therefore, no change from existing conditions would occur. As single-year water
10 transfers currently occur, which would be unchanged by the proposed amendment, the single-year
11 water transfers would either improve or not affect the ability to meet the coequal goals. With
12 respect to water supply reliability, single-year water transfers occur due to annual opportunities to
13 reduce diversion of surface water supplies in some geographical areas, and improve water supply
14 reliability to other geographical areas that have more limited surface water supplies. In the
15 geographical area from which the water is sold, the water demand for reliable surface water
16 supplies would be voluntarily reduced through water conservation, crop substitution, crop idling,
17 groundwater substitution, or reservoir re-operation, which would not affect regional water supply
18 reliability. For most of the single-year water transfers that would occur in part or in whole in the
19 Delta or Suisun Marsh (and therefore are within the jurisdiction of the Council), it is assumed that
20 DWR and/or Reclamation would continue to require that such transfers not adversely affect water
21 supply reliability for entities that are not participating in the water transfer but are located within
22 the geographical area of the source water for the transfer . In the geographical area of the
23 purchasers of transferred water, the single-year water transfer would improve water supply
24 reliability because the transfer action would reduce the amount of withdrawals from groundwater
25 or surface storage reservoirs used by the purchasers of the transferred water. This action would
26 provide flexibility for the use of this water during subsequent periods of time, thereby increasing
27 water supply reliability throughout the duration of the single-year water transfer and possibly in
28 subsequent years when the stored water would be available for future uses. Water transferred
29 through the Delta could improve ecosystem conditions of wetlands and riparian communities
30 along the Delta channels due to a temporary increase in fresh water flows in the Delta, especially
31 in the late summer months. The Council determined that single-year cross-Delta and/or in-Delta
32 water transfers occurring before December 31, 2016 would not have a significant adverse impact
33 on the environment for the reasons stated in Section 3.4 of the Delta Plan PEIR, or on the coequal
34 goals due to no significant adverse impacts following implementation of mitigation measures on
35 Delta water supplies or Delta environment.

36 **Response to Comment PCFFA/IFR 4** – Please refer to responses to Comments PCFFA/IFR
37 2 and PCFFA/IFR 3.

38 **Response to Comment PCFFA/IFR 5** – Please refer to Master Response 2.

39 **Response to Comment PCFFA/IFR 6** – Please refer to Master Response 2.

40 **Response to Comment PCFFA/IFR 7** – The May 18, 2016 Ruling on Submitted Matter:
41 Petitions for Writ of Mandate, Bifurcated Proceeding on Statutory Challenges issued by the
42 Sacramento County Superior Court (Delta Stewardship Council Cases, JCCP No. 4758) (the
43 “Delta Plan Litigation”) addressed several points associated with single-year cross-Delta and/or
44 in-Delta water transfers. The Court found that with regard to single-year cross-Delta and in-Delta
45 water transfers, that “the record indicated there was evidence both supporting temporary water
46 transfers, as well as supporting a finding that temporary transfers have been used improperly in a

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 serial manner with significant impact on the Delta. [Citations omitted]. It was not arbitrary or
 2 capricious for the Council to determine that there remained uncertainty concerning the nature and
 3 impact of these types of water transfers. Accordingly, it is not a violation of [the Council’s]
 4 discretion to exempt temporary transfers from the Delta Plan’s regulations through 2016 to enable
 5 [the Council] to gather the needed information.” Ruling on Submitted Matter p.22; see also *id.*, p.
 6 50. The Court also found that the Council did not violate the Delta Reform Act by exempting
 7 single-year cross-Delta and in-Delta water transfers. *Id.*, pp.49-52.

8 **Response to Comment PCFFA/IFR 8** – Please refer to Master Response 2.

9 **Response to Comment PCFFA/IFR 9** – As described in the response to Comment
 10 PCFFA/IFR 3, the Recirculated Draft PEIR discussed that water transferred from north of the
 11 Delta through the Delta could result in a temporary increase in water in the rivers flowing into the
 12 Delta, which could provide benefits to adjacent wetlands and riparian communities (see pages 4-3
 13 and 4-4 of the PEIR). Changes in flow in rivers that are tributary to the Delta might also influence
 14 the hydrodynamics, scour, and salinity gradients in the Delta. For example, during periods when
 15 Delta exports of SWP and Central Valley Project CVP water deliveries are reduced due to
 16 hydrologic conditions, sea water intrusion is more likely and salinity in the central and southern
 17 Delta increases. Water transfers from upstream water rights holders or water users with available
 18 water during these periods would include carriage water flows which would either result in
 19 similar or less saline conditions in the central and southern Delta to protect existing aquatic
 20 resource conditions (see Section 4.2.3 of this Addendum). It should be noted that for water
 21 transfers, the source of the water is generally from water users located upstream of the Delta, and
 22 the water is transferred across the Delta for export at the south Delta intakes.

23 As described on page 2-18 of the Recirculated Draft PEIR, the Delta Plan would encourage
 24 completion of the Central Valley Drinking Water Policy; CV-SALTS; Water Quality Control
 25 Plan Update for the San Francisco Bay/ Sacramento-San Joaquin Delta Estuary; SWRCB/Central
 26 Valley Regional Water Quality Control Board (RWQCB) Strategic Workplan; and completion of
 27 the Basin Plan Amendments for selenium and methylmercury. It is assumed that the completion
 28 of these regulatory processes will reduce the water quality effects of drainage on irrigated lands in
 29 the San Joaquin Valley that would be irrigated by either CVP or local surface waters,
 30 groundwater, or water transfers, including accumulation and discharge of selenium from
 31 groundwater into surface water bodies. For example, in 2010, the San Joaquin River from Mud
 32 Slough to Merced River was placed on the State’s Section 303(d) list of impaired water bodies, as
 33 approved by the U.S. Environmental Protection Agency (USEPA) due to selenium contamination.
 34 Other water bodies that drain to the San Joaquin River upstream of this reach and are listed as
 35 impaired by selenium contamination on the 303(d) list include Mendota Pool, Panoche Creek
 36 from Silver Creek to Belmont Avenue, Agatha Canal, Grasslands Marshes, Mud Slough (North,
 37 downstream of San Luis Drain), and Salt Slough (upstream from confluence with San Joaquin
 38 River). Total Maximum Daily Loads (TMDLs) for selenium were approved by the USEPA for
 39 the San Joaquin River (Mud Slough to Merced River) (in 2002), Grasslands Marshes (in 2000),
 40 Agatha Canal (in 2000), and Mud Slough (north, downstream of San Luis Drain) (in 2002). A
 41 TMDL is expected to be completed for Panoche Creek in 2019 and another for Mendota Pool in
 42 2021. Efforts to decrease the selenium loading to the San Joaquin River include ongoing
 43 construction of the Grassland Bypass Project to decrease selenium loading by an average of 55
 44 percent from the Grasslands Drainage Area in order to achieve the CVRWQCB Basin Plan
 45 objectives for the San Joaquin Valley, as described in the Bureau of Reclamation and San Luis
 46 Delta-Mendota Water Authority 2009 *Grassland Bypass Project 2010-2019 Environmental*
 47 *Impact Statement and Environmental Impact Report.*

1 This Addendum assumes that crop patterns would not change due to single-year water transfers;
 2 however, use of groundwater would be reduced in areas that purchase transferred water. The
 3 reduction in the use of groundwater could reduce the amount of some groundwater quality
 4 constituents that become part of the drainage flows and enter the receiving water tributaries of the
 5 San Joaquin River, including selenium, mineral salts, pesticides, and boron. Although the
 6 transferred water would include these same constituents, the concentration of these constituents is
 7 generally lower in the surface water exports from the Delta than in the groundwater located to the
 8 south of the Delta.

9 In addition, please refer to Master Response 2.

10 **Response to Comment PCFFA/IFR 10** –As summarized in Figure 1 of this Addendum,
 11 information prepared by DWR in 2013 and 2016 indicates that the cross-Delta water transfers
 12 were generally less than 5 percent of the Delta exports since 2000 except in 2014 when the water
 13 transfers were 7 percent of the total SWP and CVP Delta exports. The total amount of water
 14 transfers during this time frame ranged from 0 to 420,000 acre-feet/year; and the total amount of
 15 Delta exports ranged from 6,280,000 to 6,390,000 acre-feet/year. While the volume, location, and
 16 methods to implement future water transfers are not known at this time, it is assumed that they
 17 will approximate the characteristics of water transfers during the recent past, during which there
 18 have been similar climate and rainfall patterns. The information presented at the Council
 19 meetings, as described in this Addendum, was given equal consideration in the development of
 20 the Addendum with information from the references listed in the Addendum. Water transfers that
 21 would be considered under the Delta Plan would only involve water transfers between willing
 22 sellers and/or buyers located within the Sacramento-San Joaquin Rivers Delta or Suisun Marsh or
 23 cross-Delta water transfers. The majority of previous water transfers that have occurred in whole
 24 or in part within the Sacramento-San Joaquin Rivers Delta or Suisun Marsh have involved cross-
 25 Delta water transfers and have used SWP and CVP conveyance facilities because there are
 26 limited conveyance facilities to transfer water across the Delta. Cross-Delta water transfers that
 27 use SWP and/or CVP facilities must comply with the 2008 USFWS and 2009 NMFS biological
 28 opinions which limit timing (July 1 through September 30) and volume (up to 600,000 acre-feet
 29 in drier water year types and 360,000 acre-feet in other water year types) of transferred water.

30 With respect to the reference in this comment to the new modeling tool, all cross-Delta water
 31 transfers that involve SWP and/or CVP facilities need to comply with the current and future
 32 criteria presented in the annual *Water Transfer White Paper*. The *Water Transfer White Paper*
 33 identify the annual Stream Flow Depletion Factor based upon annual calculations. As described
 34 in Section 4 of the Addendum, DWR is preparing a model that could be used to project the
 35 Stream Flow Depletion Factor for a longer hydrologic period than one-year. Until the model is
 36 completed, however, the *Water Transfer White Paper* will identify the annual Stream Flow
 37 Depletion Factor. Incorporation of the Stream Flow Depletion Factor criteria by cross-Delta water
 38 transfer sellers that use SWP and/or CVP facilities could be considered to be a mitigation
 39 measure by DWR and/or Reclamation for that water transfer if it has not already been included in
 40 the project description of the water transfer by the transfer proponent. Incorporation of the Stream
 41 Flow Depletion Factor is not a mitigation measure for implementation of the Proposed Project
 42 addressed in this Addendum because the Proposed Project will not result in a change in physical
 43 conditions, and therefore, will have no significant environmental effects.

44 **Response to Comment PCFFA/IFR 11** – As described in response to Comment PCFFA/IFR
 45 9 and on page 2-18 of the Recirculated Draft PEIR, the Delta Plan would encourage completion
 46 of the Central Valley Drinking Water Policy; CV-SALTS; Water Quality Control Plan Update for
 47 the San Francisco Bay/ Sacramento-San Joaquin Delta Estuary; SWRCB/Central Valley RWQCB
 48 Strategic Workplan; and completion of the Basin Plan Amendments for selenium and

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 methylmercury. It is assumed that the completion of these regulatory processes will reduce the
 2 water quality effects of drainage on irrigated lands in the San Joaquin Valley that would be
 3 irrigated by either CVP or local surface waters, groundwater, or water transfers.

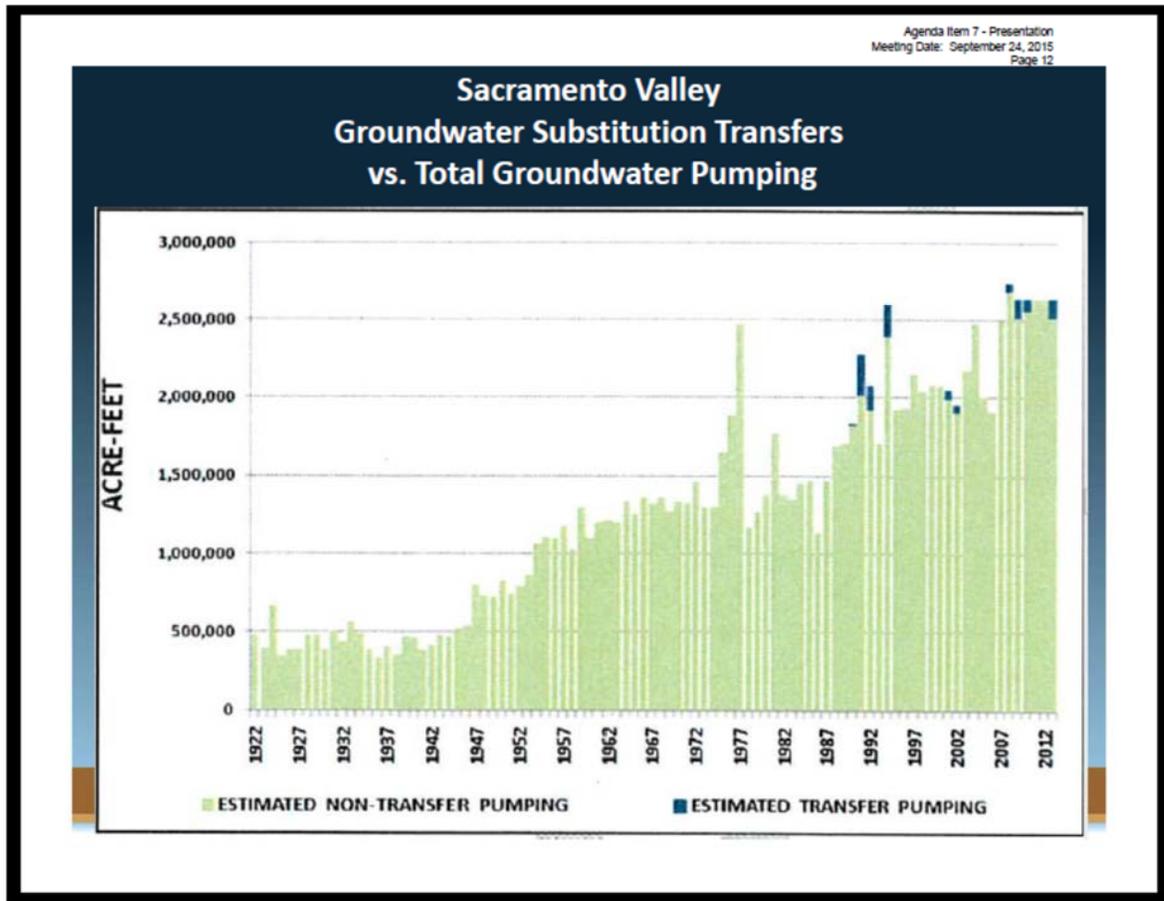
4 This Addendum assumes that the range of recent and existing crop patterns would not change due
 5 to single-year water transfers; however, use of groundwater would be reduced in areas that
 6 purchase transferred water. The reduction in the use of groundwater could reduce the amount of
 7 some groundwater quality constituents that become part of the drainage flows and enter the
 8 receiving water tributaries of the San Joaquin River, including selenium, mineral salts, pesticides,
 9 and boron. Although the transferred water would include these same constituents, the
 10 concentration of these constituents is generally lower in the surface water exports from the Delta
 11 than in the groundwater located to the south of the Delta, as described in response to Comment
 12 PCFFA/IFR 9.

13 **Response to Comment PCFFA/IFR 12** – As described on pages 12 and 13 of the Draft
 14 Addendum, 13 single-year water transfers were approved in 2014 by DWR to use SWP facilities.
 15 Of those 13 water transfers reviewed and approved by DWR, seven were not reviewed by the
 16 SWRCB. Those seven water transfers constituted 79 percent of the total amount of the water
 17 transfers, by volume, approved by DWR in 2014. The remaining six water transfers that were
 18 reviewed by DWR and the SWRCB constituted the remaining 21 percent of the total amount of
 19 the water transfers, by volume, approved by DWR in 2014. The total amount of cross-Delta water
 20 transfers approved by the SWRCB, DWR, and/or Reclamation is tracked in separate databases.
 21 At this time, there is no single database that compiles all of the water transfers approved by all of
 22 these agencies, as stated on page 30 of the Addendum.

23 **Response to Comment PCFFA/IFR 13** – As described on pages 3-4 and 3-5 of the
 24 Recirculated Draft PEIR, water transferred using groundwater substitution would result in
 25 increased groundwater pumping in the vicinity of the seller, and associated decreased
 26 groundwater levels with the potential for subsidence depending upon the location of the increased
 27 groundwater pumping. The duration of the reduction in groundwater levels would be dependent
 28 on the frequency of transfer operations and the volume of groundwater withdrawal.

29 This Addendum also relies on and makes reference to the slide presentation by DWR at the Delta
 30 Stewardship Council (Council) meeting on September 24, 2015. Slide Number 12 (reproduced
 31 below) indicates that groundwater withdrawals in the Sacramento Valley have increased
 32 substantially over the past 60 years; however, the amount of groundwater withdrawals associated
 33 with groundwater substitution transfer methods declined during the past 10 years. While
 34 increased groundwater withdrawals over the past 60 years could be related to reduction in
 35 groundwater elevations in portions of the Sacramento Valley; as shown in Figure 3-10 of the
 36 Delta Plan, overall groundwater elevations in the Sacramento Valley have been relatively stable
 37 over the past 40 years.

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Response to Comment PCFFA/IFR 14 – This comment refers to a statement on page 7 of the Draft Addendum related to the comment by John Mills at the Council July 23, 2015 meeting. The statement was related to consideration of regional water resources management plans that were developed in the past few years that could constrain the transfer of water from a geographic area, or reduce the ability to implement one or more water transfers methods, including groundwater substitution. This Addendum, like the Delta Plan PEIR, is based upon programmatic analyses of potential future transfers. Therefore, the specific locations of the future water transfers are not known at this time.

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Response to Comment PCFFA/IFR 15 – The Proposed Project would remove the sunset date from 23 CCR section 5001(dd)(3). Pursuant to Water Code section 85300(c), the Council is required to review the Delta Plan “at least once every five years and may revise it as the council deems appropriate.” This statutory review will provide a forum for public input on single-year cross-Delta and in-Delta water transfers. With regard to the proposal for an expedited approval process, the Council does not approve water transfers under any circumstances but requires a demonstration of consistency with the Delta Plan for transfers of greater than one year in duration. The length of the process for determination of consistency is based upon adequate time for public review of proposed actions, submission by the project proponents of information that supports the required certification of the consistency of the proposed actions with the Delta Plan, and review of that information by the Council. The current schedule for this process, as posted on the Council’s website, was developed to avoid delay in implementation of proposed actions that are consistent with the Delta Plan.

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1 **Response to Comment PCFFA/IFR 16** – The Delta Plan does not in any way alter current
 2 requirements for regulatory approval of single-year water transfers, including approval by Federal
 3 agencies. The water transfers that would be considered under the Delta Plan by the Council would
 4 only involve water transfers between willing sellers and/or buyers located within the Sacramento-
 5 San Joaquin Rivers Delta or Suisun Marsh or cross-Delta water transfers, including those that use
 6 CVP facilities or involve CVP water contracts. As described in Section 4.2.3, Department of
 7 Water Resources and Bureau of Reclamation Processes for Cross-Delta Water Transfers. of this
 8 Addendum, Reclamation must approve all water transfers involving CVP water contracts and/or
 9 CVP water conveyance facilities. In accordance with the Central Valley Project Improvement Act
 10 of 1992, Reclamation will not approve water transfers that result in: (a) a significant adverse
 11 effect on the ability to deliver CVP contractual obligations or fish and wildlife obligations due to
 12 limited conveyance and pumping capacity; (b) a significant long-term adverse impact on
 13 groundwater conditions in the transferor’s service area; (c) an unreasonable impact on water
 14 supply operations, or financial conditions of the transferor’s entity or water users; and (d) a
 15 significant reduction in the quantity or decrease the quality of water supplies used for fish and
 16 wildlife purposes unless the Secretary of the Interior determines that the adverse effect would be
 17 more than offset by benefits of the transfer (Public Law 102-575, Title 34, section 3405(a)).

18 Only water provided through the reduction of consumptive use or reversal of loss of runoff that
 19 has historically been irretrievably lost can be considered for water transfer in the Reclamation
 20 approval process. Reclamation must complete NEPA and CEQA documents and consult with the
 21 USFWS and NMFS under the ESA Section 10 prior to approval of any single-year and multi-year
 22 water transfers. The USFWS and NMFS must determine whether the water transfers are
 23 consistent with the existing biological opinions, and that the proposed water transfers would not
 24 be likely to jeopardize the continued existence of endangered or threatened species or result in the
 25 destruction or adverse modification of their critical habitats [16 U.S. Code section 1536 (a)(2)].
 26 Reclamation also requires water transfer applicants to submit CEQA documentation if required
 27 by the State or local agencies involved in the water transfer.

28 **Response to Comment PCFFA/IFR 17** – Please refer to responses PCFFA/IFR 2 through
 29 PCFFA/IFR 16.

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1 **6.2.8** *Organization: Restore the Delta (RTD)*



June 13, 2016

Via email: peiraddendumsingle_yearwatertransferscomments@deltacouncil.ca.gov

Anthony Navasero, Senior Engineer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Subject: Draft PEIR Addendum for Proposed Single-Year Water Transfer Amendment

Dear Mr. Navasero:

Restore the Delta's (RTD)'s mission is to save the San Francisco Bay-Delta Estuary for our children and future generations. We are a grassroots campaign of residents and organizations committed to restoring the Sacramento-San Joaquin Delta so that fisheries and farming can thrive there together. We fight for Delta waters that are fishable, swimmable, drinkable, and farmable, able to support the health of the estuary, San Francisco Bay, and the ocean beyond.

RTD 1

Thank you for the opportunity to comment on the Delta Stewardship Council's proposed Single-Year Water Transfer Amendment draft addendum to the Delta Plan Program Environmental Impact Report.

The PEIR Addendum is woefully inadequate in addressing the environmental impacts of Single Year Water Transfers (SYWTs). Moreover, the SYWT policy itself is woefully inadequate to the task of treating SYWTs as covered actions, and avoids water transfers' relationship to Water Code Section 85021's mandate that all importing water users reduce reliance on the Delta for their future water needs; the PEIR addendum fails even to make findings as to how and why the Council's SYWT policy might be consistent with Water Code Section 85021. The environmental checklist fails to discuss cumulative impacts, a serious omission from the Addendum's checklist since cumulative impacts of SYWTs were considered important by the Council as part of Delta Plan development. Finally, baseline information asserts recurring transfers are all unique and therefore not somehow recurring, but omits detailed information of precisely which water contractors and agencies sell and buy water via transfer activities year-in and year-out that would demonstrate whether this is true or not.

RTD 2

RTD 3

RTD 4

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General Comments

The project description is over-long. Much of its narrative describes the process of developing the Council's policy on SYWTs and buries the actual text of the Council's proposed new SYWT policy at the end.

RTD 5

Estuarine Ecology consultant Bruce Herbold, appearing as panelist before the Council last year, stated that water transfers are employed as an emergency measure to help water contractors who have been shorted in their Central Valley Project and State Water Project allocations due to dry or critically dry hydrology.¹ We agree with this assessment of water management and allocation, and attach to this comment letter Restore the Delta's analysis of short-term-focused water management by the projects that precipitates on one hand temporary urgency waivers of water quality standards by the State Water Board, and on the other, cross-Delta water transfers.

RTD 6

Single Year Water Transfers and California WaterFix

The Council's Single Year Water Transfers decision must not be separated from the push to develop the California WaterFix. ***Cross-Delta Water Transfers inhere in the Tunnels Project's purpose, but is improperly ignored in the PEIR as a cumulative project that affects the state and federal projects' capacity to conduct such transfers.***

RTD 7

The BDCP Draft EIR/EIS (issued in December 2013) failed to disclose as an underlying purpose its intention to use the Tunnels facility (the facilities identified in "Conservation Measure 1") to increase water market transfer activity whenever tunnels and pumping capacity permits. Yet it contained appendices that demonstrated how integral the Tunnels Project would be to facilitating any future cross-Delta water transfers market. The market, according to the appendices, is typically triggered, as appendices to Chapter 5 acknowledged, when State Water Project allocations are 50 percent of Table A amounts or below, or CVP agricultural allocations are 40 percent or below, or when both projects' allocations are at or below these levels. Below these allocation thresholds, according to the draft BDCP EIR/EIS, "supplemental demand" occurs among state and federal water contractors, indicating that a water transfer program for cross-Delta transfers will be inaugurated by the Bureau of Reclamation and the Department of Water Resources.

DWR and the Bureau acknowledged their intention to continue arranging cross-Delta water transfers using Delta export facilities as best they can, but continue to shirk their responsibility to refrain from serial projects under NEPA and CEQA when it is clear they operate as long-term, recurring water transfer programs. BDCP would continue this chronic misbehavior, however. The Draft EIR/EIS stated:

¹ <https://mavensnotebook.com/2015/10/14/water-transfers-and-the-delta-plan-part-3-the-environmental-perspective/>

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RTD 7
(cont)

This EIR/EIS provides project-level CEQA/NEPA coverage for the flow of water in-Delta and south-of-Delta associated with all project and non-project water transactions. There is no maximum on the amount of water that can be conveyed through or delivered from the Delta as long as it is consistent with the operational criteria described in [Conservation Measure 1 of BDCP and the Chapter 5 Effects Analysis], and it is not limited by other factors including hydrological, regulatory and contacts [sic] conditions. Because specific agreements have not been identified for water transfers and other non-project voluntary water market transactions, project-level analysis of impacts upstream of the Delta is highly speculative and this EIR/EIS does not constitute the CEQA/NEPA coverage required for any specific transaction. *Rather, it provides an analysis of how transfers relate to the BDCP facilities. Any future water transfers will require separate approvals as outlined below. The analysis of any potential upstream impacts is not a part of this EIR/EIS and must be covered pursuant to separate laws and regulations once the specific transfer has been proposed.*

Any transfers conveyed through BDCP facilities will need to satisfy all of the applicable requirements in force at the time of the transfer's approval. This EIR/EIS does not comprise the CEQA/NEPA coverage required for any specific transfer approval. Rather, it provides an analysis of how transfers relate to the operation of BDCP facilities and covers the movement of water once it has been brought to the Delta through transfers and other types of transactions. *Any future water transfers will require separate approvals, including separate coverage of any upstream source area impacts.*

Restore the Delta urges the Delta Stewardship Council to use its covered action process to ensure that Sacramento Valley and in-Delta legal users of water (both water right holders and beneficial users generally) are protected, and that the provisions of area of origin watersheds and the Delta Protection Act of 1959 are upheld. To avoid the potential for serial SYWTs constitutes piece-mealing with respect to the Council's water transfer role and the recurring annual character of DWR's and the Bureau's water transfer programs, in addition to ignoring the cumulative impact of Tunnels construction and operation. Piece-mealing is illegal under CEQA and NEPA.

The California Environmental Quality Act defines a "project" to mean "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is" undertaken by any public agency, supported through monetary or contractual arrangements from one or more public agencies, or involves issuance to a person of a lease, permit, license, certificate or other such entitlement by one or more public agencies. The Tunnels of California WaterFix are such a project. The CEQA Guidelines further define a "project" to mean the "whole of an action" that would cause direct or reasonably foreseeable indirect physical environmental changes.

CEQA case law has resulted in the definition of "project" receiving a broad interpretation in order to maximize environmental protection. Plans or programs are typically schemes in which multiple actions are coordinated or facilitated within a framework of policies that govern the sequence or series of those actions. In performing CEQA analysis of a plan or program, then, agencies should not "piecemeal" or "segment" a project by splitting it into two or more segments.

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CEQA prohibits piece-mealing because to segment a project can submerge the cumulative impact of individual environmental impacts. In *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376, 396 [253 Cal. Rptr. 426] the court declared that environmental reviews must "include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."

RTD 7
(cont)

Under NEPA, federal agencies may not chop or segment a proposed action into small pieces to avoid the application of NEPA or to avoid a more detailed assessment of environmental effects of an overall action.

In this instance, it is clear from our analysis (see below) on water supply impacts of the proposed Tunnels project that **expanding water transfers is an important unrevealed yet underlying purpose and need for the proposed Bay Delta Conservation Plan**. Enlarging the capacity of the Delta conveyance facilities through construction and operation of the North Delta Intakes and Twin Tunnels project is part and parcel of expanding the ability of DWR and the Bureau to arrange and carry out more cross-Delta water transfers in the future. This purpose is not revealed in BDCP's purpose and need statement, nor is it acknowledged by the Council in its PEIR Addendum.

Groundwater substitution transfers have been the preferred type of transfers in recent California water market transfers experience. The primary source of groundwater available to substitute for foregone surface water supplies from "willing sellers" is the Sacramento Valley's aquifers.

The Delta pumps are currently unlikely to have available capacity for transfers at the start of the irrigation season under conditions imposed by the Biological Opinions. ***This constraint may be removed, however, if the transfer water is moved in BDCP facilities.***

Under the BDCP alternatives, if export conveyance capacity were available constantly throughout the period of April through October, then the reservoir elevations would remain at their without-Transfer levels.

This second statement in particular signals that the North Delta Intakes and Twin Tunnels project would increase capacity to deliver and convey water, and the draft BDCP EIR/EIS asserts that groundwater substitutions for foregone surface water from senior water rights holders in the Sacramento Valley would reduce or remove the need to release precious surface water from CVP and SWP upstream reservoirs.

Indeed, Appendix 5C reads quite a lot like a marketing brochure for DWR's and the Bureau's expanding cross-Delta water transfer market:

Agencies could engage in groundwater substitution transfers with Anderson Cottonwood Irrigation District, Glenn-Colusa Irrigation District, Maxwell Irrigation District, Natomas Central Mutual Water Company, River Garden Farms, Reclamation District 108, other Sacramento River Settlement Contractors, Butte Water District, Garden Highway Water

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District , Sutter Extension Water District, Western Canal Water District, Yuba County [Water Agency], and Merced [Irrigation District].

As noted elsewhere, the availability of cross-Delta transfer capacity is frequently an issue under existing conditions. The potential cross-Delta transfer volume may be limited by the capacity of the export facilities, by regulatory constraints, and by the availability of water for transfer from willing sellers upstream of the Delta. *The provision of added capacity to the export pumps through BDCP facilities [i.e., the North Delta Intakes and Twin Tunnels project] would ease the through-Delta and timing constraints of moving the transfer water.* There would still need to be remaining capacity in the export pumps beyond that required for project water to move the transfer water south from that point, capacity that would generally be available in the dry year types but problematic in other year types.

All of these potential "willing sellers" are located in the Sacramento Valley, except for Merced Irrigation District.

Every year since 2008, DWR and the Bureau have proposed and prepared to implement cross-Delta water transfers and now BDCP proposes to increase cross-Delta water transfer activity. In 2014, the Bureau released a Long-Term Water Transfers Program EIS, which is now in litigation. Regardless of whether "project-level" individual transfer agreements occur, the PEIR Addendum is deficient for failing to disclose the environmental review controversy involved in cross-Delta water transfers, and consequently failing to include DWR and USBR water transfer program review at the program level of specificity. The Council should review the likely effects of cross-Delta water transfers on the Delta and the Sacramento Valley watershed from which most transfers originate based on how BDCP would facilitate such increased activity.

This is a serious deficiency of the PEIR Addendum and requires revision of the document and eventual recirculation to the public. It compromises full disclosure of project objectives, setting, and impacts and mitigation of the proposed action.

Present and recent past groundwater conditions in Sacramento Valley and Delta

The PEIR Addendum provides no setting analysis of groundwater resources and conditions in the Sacramento Valley, especially in the wake of four years of drought. It also fails to mention that in recent years when the Bureau of Reclamation and the California Department of Water Resources operated water transfer programs (e.g., in 2009, 2010, and 2013) groundwater substitution transfers were employed to a large degree to replace surface water supplies sold by senior water right holders in the Sacramento Valley.

It also fails to disclose that the Sacramento Valley is the focus of considerable planning, engineering, and hydrogeological research into the Valley's potential for use as the state's largest reservoir for conjunctive use water management. In recent years, the Glenn Colusa Irrigation District and the Natural Heritage Institute are studying this potential in hopes of positioning Glenn Colusa Irrigation District as a major broker of water transfers and groundwater substitution sources for "willing sellers" of water from the Sacramento Valley.

RTD 7
(cont)

RTD 8

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The Tunnels Project would increase overall reliability of contractual deliveries relative to current conditions. To accomplish this, it would increase overall conveyance capacity crossing the Delta (due to its vaunted opportunities for flexible dual diversion operations), which in the view of Tunnels Project proponents, is presently a limiting factor on consummating water transfers (understood regardless of their contractual or market basis).² Contrary to the NEPA conclusion of the RDEIR/SDEIS for Alternative 4A, Alternative 4A would still *increase* (not decrease, as is stated therein, which does not make sense, since what are the Tunnels but additional conveyance capacity?) conveyance capacity overall, enabling cross-Delta water transfers that could lead to increases in Delta exports when compared to the No Action Alternative.

RTD 9

The CEQA conclusion on California WaterFix appears logically stated to us (though we disagree with its objective):

Alternative 4A would increase water transfer demand compared to existing conditions. Alternative 4A would increase conveyance capacity, enabling additional cross-Delta water transfers that could lead to increases in Delta exports when compared to existing conditions.³

These conclusions make clear that increased conveyance capacity boosts not just contractual water supply reliability, but also market-based water supply reliability, the latter of which is not disclosed in the RDEIR/SDEIS's statement of objectives, purpose and need in Section 1.

Plus, the very existence of the water transfer market in dry and drought years is due to the lack of water available to fulfill SWP and CVP water right claims, and the contractual demands of their south of Delta customer agencies. The Tunnels Project is intended to facilitate **both** more reliable contractual deliveries **and** a water transfer market that moves senior water right holders' supplies through the Delta for compensation. In both cases, water is conveyed under the Delta through the Tunnels. The only question in the long-term with a Tunnels Project in place (from the standpoint of objectives, purpose and need) is when the water moves—under contract terms, or under market-based terms?

The purpose of the Tunnels' water transfer role is to gain greater access to north of Delta exportable supplies for south of Delta importers in the State and Federal water project service areas. The PEIR Addendum fails to evaluate the water transfer purposes of the Tunnels Project with respect to the source(s) of market-based transfer

² The RDEIR/SDEIS does a poor job of clarifying the difference between contractual allocation-based water transfers across the Delta - the normal, preferred course of exportation from the Delta - and market-based, extra-contractual acquisitions of temporary supplies of water that are moved across the Delta primarily when project allocations reach as low as 50 percent for the SWP and 40 percent for the CVP. See EWC's comments on water transfers in EWC Comment Letter, June 11, 2014, pp. 192-200.

³ RDEIR/SDEIS, Section 4.3.1, p. 4.3.1-9, lines 34-36.

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water. Last year, we commented that BDCP Draft EIR/EIS claimed that the Sacramento Valley is the main source of supplies for the water transfer market and that it is "full" in most areas and many years.⁴ We noted too that groundwater substitution water sales would be likely to increase in a future with the Tunnels Project in place, which we further argued, would likely be catastrophic for the Sacramento Valley's comparatively healthy connection of groundwater resources to extant rivers, streams and sloughs there. In remarks to the Delta Stewardship Council on September 24, 2015, State Water Resources Control Board Executive Director Tom Howard said of groundwater substitution water transfers:

RTD 9
(cont)

I think we need to do some work on this issue. I have a hard time understanding quite how the stream depletion factors [applied by DWR and the Bureau of Reclamation to water transfer proposals] were established and I think there is ongoing work associated with them. Right now there's a streamflow depletion factor of 12 to 13%. I keep advising people to read USGS Publication Number 1376 as the basic thesis of that USGS publication is that groundwater pumping is just another way to divert surface water. It's just another method of diversion of surface water that essentially, except in very limited circumstances, any groundwater pumping eventually becomes a depletion upon the nearest surface water body.⁵

Because the Tunnels Project of California WaterFix is intended to expand the cross-Delta water transfer market and enable south-of-Delta contractors to have readier and steadier access to water transfers in dry/drought years, **the DSC should direct staff to incorporate the start of Tunnel construction as a trigger for the DSC to revisit any continuation of SYWT exemption.** Currently the existing biological opinions limit water transfer activity to the July through September period when listed fish species are least present in the Delta. The RDEIR/SDEIS for the Tunnels states that with the Tunnels in place, **the scheduling of water transfers could occur at any time of year, because of the presence of north Delta diversions to the tunnels.** Extra diversion activity at these diversions could have serious, and as yet unexamined impacts on fisheries and ecosystems in the Delta. This alone is adequate reason for the DSC to prepare an EIR to evaluate SYWT exemption from covered action review. The Tunnels is clearly a reasonably foreseeable project.

RTD
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⁴ Draft EIR/EIS, November 2013, Chapter 7, p. 7-13, line 10-16. "Applied annual agricultural water irrigation totals approximately 7.7 MAF in the Sacramento Valley Groundwater Basin [citation]. A portion of this applied water, and the remaining 13.9 MAF of runoff, is potentially available to recharge the basin and replenish groundwater storage depleted by groundwater pumping. *Therefore, except during drought, the Sacramento Valley groundwater basin is 'full,' and groundwater levels recover to pre-irrigation season levels each spring.* Historical groundwater level hydrographs suggest that even after extended droughts, groundwater levels in this basin recovered to pre-drought levels within 1 or 2 years following the return of normal rainfall quantities." Emphasis added.

⁵ *Maven's Notebook*, "Water Transfers and the Delta Plan, part 2: The agency view," October 13, 2015, accessible online at <http://mavensnotebook.com/2015/10/13/water-transfers-and-the-delta-plan-part-2-the-agency-view/>. Emphasis added. See also Paul M. Barlow and Stanley A. Leake, *Streamflow Depletion by Wells—Understanding and Managing the Effects of Groundwater Pumping on Streamflow*, U.S. Geological Survey Circular 1376, 84 p. (Also available at <http://pubs.usgs.gov/circ/1376/>).

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We are also very concerned that even if, as the PEIR Addendum reasons, that a lack of groundwater substitution water transfers would keep water resource impacts to a minimum, use of crop idling and reservoir reoperation transfers may have injurious impacts to farm workers and agricultural businesses that depend on crop production in the Sacramento Valley and the Delta. Either way, the Sacramento and the Delta would take the brunt of impacts of serial single-year water transfers—impacts either to groundwater, rivers and streams; or to farm workers and agricultural businesses—especially should California WaterFix construction and operation occur.

RTD
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By incorporating a California WaterFix trigger into the Council's adoption of its proposed single-years water transfer exemption policy, the Council would take responsibility for revisiting what could be a disastrous expansion of cross-Delta water transfers before they might be formally allowed to occur.

RTD
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Thank you for the opportunity to comment on the Draft PEIR Addendum on Single-Year Water Transfers. If you have questions of us, please contact Tim Stroshane at 510/524-6313 (tim@restorethedelta.org).

RTD
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Sincerely,

 Tim Stroshane Policy Analyst	 Barbara Barrigan-Parrilla Executive Director
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1 **Organization: Restore the Delta (RTD)**

2 **Response to Comment RTD 1** – Comment noted.

3 **Response to Comment RTD 2** – As described in this Addendum, single-year water transfers
 4 do not provide long-term water supply reliability in a manner that would support development of
 5 communities or water conveyance infrastructure. However, during the year that a single-year
 6 water transfer occurs, the transfer action would reduce the amount of withdrawals from
 7 groundwater or surface storage reservoirs used by the purchasers of the transferred water. This
 8 action would provide flexibility for the use of this water in subsequent periods of time; thereby,
 9 increase water supply reliability throughout the duration of the single-year water transfer and
 10 possibly in subsequent years when the stored water would be available for future uses to reduce
 11 reliance on Delta water supplies in the future.

12 **Response to Comment RTD 3** – The Draft Addendum addresses cumulatively considerable
 13 impacts in Section 5.21, Item 2 of the Environmental Checklist.

14 **Response to Comment RTD 4** – Water transfers that would be required to be consistent with
 15 the Delta Plan would only involve water transfers of greater than one year in duration between
 16 willing sellers and/or buyers located within the Sacramento-San Joaquin Rivers Delta or Suisun
 17 Marsh or cross-Delta water transfers. The proposed regulatory amendment (Proposed Project)
 18 does not involve changes in Delta Plan regulations with regard to these longer term water
 19 transfers, however. Accordingly, they are not the subject of this Addendum. The majority of
 20 previous water transfers that have occurred in whole or in part within the Sacramento-San
 21 Joaquin Rivers Delta or Suisun Marsh have involved cross-Delta water transfers and have used
 22 the SWP and/or CVP conveyance facilities because there are limited conveyance facilities to
 23 transfer water across the Delta. The total amount of cross-Delta water transfers approved by the
 24 SWRCB, DWR, and/or Reclamation is tracked in separate databases. At this time, specific
 25 sources of the water transfers have not been compiled in an uniform manner to determine
 26 methods used for all water transfers, as stated on page 30 of the Draft Addendum. However,
 27 information published by DWR indicates the wide range participants and volumes of water
 28 transferred in 2014 and 2015 through single-year and long-term water transfers that occurred in
 29 accordance with Water Code Section 1725 and that required use of DWR facilities (DWR 2014a,
 30 2014b, 2015b, 2015c). In addition, as summarized in Figure 1 of this Addendum, information
 31 prepared by DWR in 2013 and 2016 indicates that the cross-Delta water transfers were generally
 32 less than 5 percent of the Delta exports since 2000 except in 2014 when the water transfers were 7
 33 percent of the total SWP and CVP Delta exports. The total amount of water transfers during this
 34 time frame ranged from 0 to 420,000 acre-feet/year. This Addendum assumes that these
 35 conditions will continue in the future under the Proposed Project regardless of whether individual
 36 water transfers in sequential years are similar or substantially different.

37 **Response to Comment RTD 5** – The Proposed Project description is presented on pages 2
 38 through 5 of the Draft Addendum, which includes the specific changes to the text of 23 CCR
 39 section 5001 *et seq.* and Water Reliability Recommendation 15 of the Delta Plan.

40 **Response to Comment RTD 6** – Comment noted.

41 **Response to Comment RTD 7** – The Bay Delta Conservation Plan (BDCP) proposed by
 42 DWR and Reclamation was considered as a cumulative project in the Delta Plan Program
 43 Environmental Impact Report (PEIR). As described on page 1 of the Draft Addendum, this
 44 Addendum builds upon the Delta Plan PEIR and does not repeat information in the PEIR.
 45 Following publication of the 2013 BDCP Draft Environmental Impact Report/Environmental
 46 Impact Statement (EIR/EIS), DWR and Reclamation modified the project description and

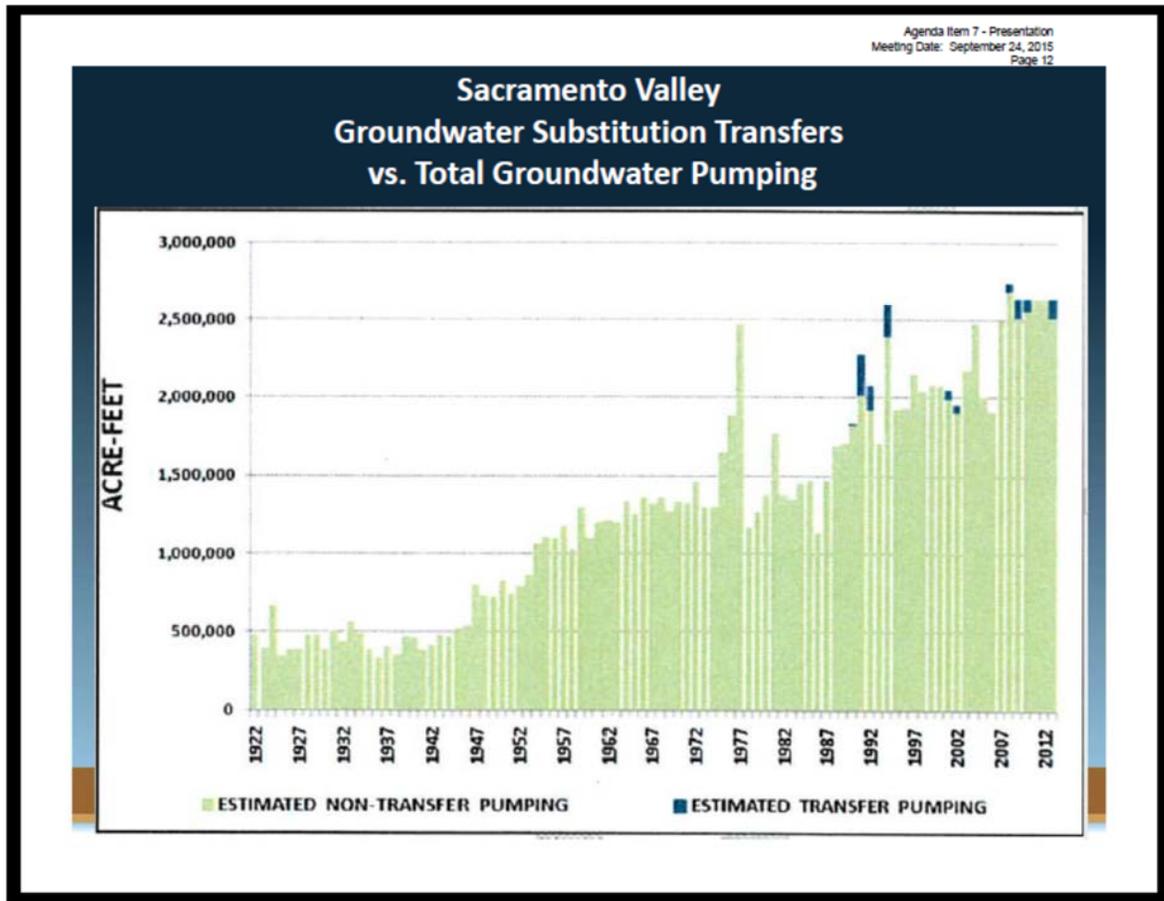
ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 developed a new alternative called the California WaterFix. The California WaterFix alternative
 2 and two other alternatives were analyzed in DWR’s and Reclamation’s 2015 California WaterFix
 3 Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact
 4 Statement (RDEIR/SDEIS). Alternatives analyzed in the 2013 BDCP Draft EIR/EIS and the 2015
 5 RDEIR/SDEIS do not include assumptions regarding water transfers that are different from
 6 historical conditions. The 2013 BDCP Draft EIR/EIS and the 2015 RDEIR/SDEIS assume that
 7 water transfers would continue in a manner similar to historic transfers and in accordance with
 8 State and Federal laws and regulations. Because specific agreements have not been identified for
 9 water transfers and other non-project voluntary water market transactions as part of either BDCP
 10 or California WaterFix, such transfers were not treated as either part of the project for purposes of
 11 analysis in the 2013 BDCP Draft EIR/EIS or the 2015 RDEIR/SDEIS. Accordingly, the only
 12 single-year water transfers included in the description of the project in the Delta Plan PEIR and
 13 this Addendum are water transfers that would occur in whole or in part in the Delta and Suisun
 14 Marsh.

15 Furthermore, as stated in responses to Comment AA 6, the Proposed Project does not involve
 16 changes in the Delta Plan regulations with regard to transfers of greater than one year in duration.
 17 With regard to single-year transfers, the Proposed Project would continue to exempt single-year
 18 cross-Delta and/or in-Delta water transfers from the definition of covered action. Because the
 19 Proposed Project will not result in a change in physical conditions, it will have no significant
 20 environmental effects. Please refer to Master Response 2.

21 **Response to Comment RTD 8** – This Addendum analyzes changes pertinent to the Proposed
 22 Project since preparation of the Delta Plan PEIR, which fully describes the existing conditions
 23 and setting for the Delta Plan. With regard to single-year transfers, the Proposed Project would
 24 continue to exempt single-year cross-Delta and/or in-Delta water transfers from the definition of
 25 covered action. and would not result in a change from existing physical conditions. This
 26 Addendum also takes advantage of prior work by other agencies on environmental topics
 27 implicated by the proposed regulatory amendment (Proposed Project), including the
 28 environmental setting related to groundwater sources (see references cited in Sections 3.4.3.1.1
 29 and 3.4.3.1.2 in the Delta Plan PEIR). The Addendum summarizes relevant substantial evidence
 30 and conclusions reached in the pertinent environmental and technical documents which are cited
 31 in the Addendum. For example, the Addendum relies on information presented in the 2015
 32 *Department of Water Resources and Bureau of Reclamation Water Transfer White Paper*
 33 *Requirements (Water Transfer White Paper)* concerning current regulatory processes, as well as
 34 the slide presentation by DWR at the September 24, 2015 Council meeting. Slide Number 12
 35 (reproduced below) indicated that groundwater withdrawals in the Sacramento Valley have
 36 increased substantially over the past 60 years; however, the amount of groundwater withdrawals
 37 associated with groundwater substitution transfer methods declined in the past 10 years. While
 38 increased groundwater withdrawals may be related to reduction in groundwater elevations in
 39 portions of the Sacramento Valley, as shown in Figure 3-10 of the Delta Plan, overall
 40 groundwater elevations in the Sacramento Valley have been relatively stable over the past 40
 41 years. Please refer to Master Response 1.

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Please refer to Master Response 3 related to the comparison in existing conditions in Delta Plan PEIR and this Addendum.

Response to Comment RTD 9 – Please refer to response to Comment RTD 7. As described in Section 5.2.1 of the Draft Addendum, this Addendum recognizes that future climate change conditions are anticipated to increase the frequency and extent of dry periods in California which could increase the demand for water transfers both upstream of the Delta and across the Delta. The Council staff also discussed at the November 19, 2015 Council meeting the potential for future increases in water transfers, especially if conveyance facilities used for SWP and CVP water supplies are modified, such as proposed in the California WaterFix (see Section 3.2.3 of the Draft Addendum). The Council staff acknowledged that these future actions could change effects of single-year water transfers; however, these actions have not been fully developed or approved. Moreover, the Proposed Project would continue to exempt single-year cross-Delta and/or in-Delta water transfers from the definition of covered action. and would not result in a change from existing physical conditions. The Council staff recommended that in the future, regular reports from DWR and SWRCB should be provided to the Council, and the effects of single-year water transfers on the coequal goals should be reconsidered as warranted.

Pursuant to Water Code section 85300(c), the Council is required to review the Delta Plan “at least once every five years and may revise it as the council deems appropriate.” This statutory review will provide a forum for public input on single-year cross-Delta and in-Delta water transfers.

1 Please refer to Master Response 1 which responds to the comment related to the relationship
2 between this Addendum and the Bay Delta Conservation Plan/California WaterFix.

3 **Response to Comment RTD 10** – The Proposed Project would remove the sunset date from
4 23 CCR section 5001(dd)(3). Pursuant to Water Code section 85300(c), the Council is required to
5 review the Delta Plan “at least once every five years and may revise it as the council deems
6 appropriate.” This statutory review will provide a forum for public input on single-year cross-
7 Delta and in-Delta water transfers. With regard to the proposal for incorporation of a trigger for
8 the Council to reconsider elimination of the exemption of single-year cross-Delta and in-Delta
9 water transfers from the covered action process related to completion of the California WaterFix
10 program, this type of alternative concept could be considered following completion of the
11 California WaterFix conveyance facilities, which is currently projected to occur in the early
12 2030s.

13 **Response to Comment RTD 11** – The Council would only have jurisdiction involve water
14 transfers between willing sellers and/or buyers located within the Sacramento-San Joaquin Rivers
15 Delta or Suisun Marsh or cross-Delta water transfers. As summarized in Figure 1 of this
16 Addendum, information prepared by DWR in 2013 and 2016 indicates that the cross-Delta water
17 transfers were generally less than 5 percent of the Delta exports since 2000 except in 2014 when
18 the water transfers were 7 percent of the total SWP and CVP Delta exports. The total amount of
19 water transfers during this time frame ranged from 0 to 420,000 acre-feet/year; and the total
20 amount of Delta exports ranged from 6,280,000 to 6,390,000 acre-feet/year. While the volume,
21 location, and methods to implement future water transfers are not known at this time, it is
22 assumed that they will approximate the characteristics of water transfers during the recent past,
23 during which there have been similar climate and rainfall patterns

24 The majority of previous water transfers that have occurred in whole or in part within the
25 Sacramento-San Joaquin Rivers Delta or Suisun Marsh have involved cross-Delta water transfers
26 have used the SWP and CVP conveyance facilities. Cross-Delta water transfers that use SWP
27 and/or CVP facilities must comply with requirements published annually in the *Water Transfer*
28 *White Paper* reports. This Addendum assumes that DWR and Reclamation would continue to
29 issue these annual reports with updated requirements.

30 As described in Sections 4.2.2 and 4.2.3, the actions addressed in the *Water Transfer White Paper*
31 to reduce effects on agricultural land use or socioeconomic conditions were assumed to be part of
32 the project description for future cross-Delta water transfer actions, and that subsequent
33 mitigation measures would not necessarily be required. All cross-Delta water transfers that
34 involve SWP and/or CVP must evaluate the environmental effects of providing the water supply
35 for each water transfer, including effects on groundwater related to groundwater substitution
36 methods, surface water flows, and socioeconomics. DWR must confirm that use of SWP facilities
37 for water transfers would only occur if: (a) there is available unused SWP capacity and SWP
38 operations would not be adversely affected; (b) fair compensation is provided to the SWP by the
39 water transferors; (c) the water transfer would not injure any other legal user of water; (d) the
40 water transfer would not unreasonably affect fish, wildlife, or other instream beneficial uses; and
41 (e) the water transfer would not unreasonably affect the overall county-wide economy or
42 environment of the county from which the water is transferred (DWR and SWRCB 2015a). Water
43 transfers also may not result in diminution of beneficial uses or water quality in the SWP.
44 Reclamation must confirm that the use of CVP facilities for water transfers would only occur if:
45 (a) there is available unused CVP capacity and CVP operations would not be adversely affected
46 related to the ability to deliver CVP contractual obligations or fish and wildlife obligations; (b)
47 there would be no significant long-term adverse impact on groundwater conditions in the seller’s
48 service area; (c) there would be no unreasonable impacts on water supply operations, or financial

ADDENDUM TO THE DELTA PLAN PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

1 conditions of the seller's entity or water users; and (d) there would be no significant reduction in
2 the quantity or decrease the quality of water supplies used for fish and wildlife purposes unless
3 the Secretary of the Interior determines that the adverse effect would be more than offset by
4 benefits of the transfer (in accordance with Public Law 102-575, Title 34, section 3405(a)). These
5 requirements are based upon existing regulatory requirements of SWRCB, DWR, and
6 Reclamation.

7 **Response to Comment RTD 12** – Please refer to response to Comment RTD 10.

8 **Response to Comment RTD 13** – Comment noted.

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1 **6.2.9 Organization: State Water Contractors (SWC)**

June 10, 2016

Mr. Anthony Navasero, Senior Engineer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814



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of Southern California

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Curtis Creel
Kern County Water Agency

Cindy Kao
Santa Clara Valley Water
District

Dan Masnada
Castaic Lake Water Agency

Phillip Miller
Napa County FC&WCD

Ray Stokes
Central Coast Water
Authority

General Manager
Terry Erlewine

Dear Mr. Navasero,

Re: Public Review and Comment on the Draft Addendum to the Delta Plan
Programmatic Environmental Impact Report

The State Water Contractors (SWC) concurs with the Delta Stewardship Council's staff's recommendation to permanently eliminate single-year water transfers as a statutory covered action. The SWC is a nonprofit mutual benefit corporation that represents and protects the common interests of its 27 members¹ of the California's State Water Project ("SWP"). Collectively, SWC member agencies utilize the SWP and other supplies to deliver water to more than 26 million residents throughout the state and to more than 750,000 acres of agricultural lands. During times of critical needs, the SWC periodically works with its member agencies to develop and execute single-year water transfers in an attempt to attenuate the effects of low SWP allocations and drought. Because these situations are predicated on annual hydrologic conditions and limited capacity to convey the water through the Delta due to environmental restrictions governing SWP operations, there is normally very limited time to develop and execute single-year water transfers. All SWC one-year water transfers traversing the Delta have been, and will continue to be, reviewed and approved by the Department of Water Resources and/or the State Water Resources Control Board. Therefore, the SWC concurs with the Delta Stewardship Council's staff's recommendation to permanently eliminate single-year water transfers as a statutory covered action.

Should you have any questions, please do not hesitate to contact me at (916) 447-7357 ext. 203.

Sincerely,

Terry L. Erlewine,
General Manager

¹ The SWC members agencies are: Alameda County Flood Control and Water Conservation District Zone 7; Alameda County Water District; Antelope Valley-East Kern Water Agency; Casitas Municipal Water District; Castaic Lake Water Agency; Central Coastal Water Authority; City of Yuba City; Coachella Valley Water District; County of Kings; Crestline-Lake Arrowhead Water Agency; Desert Water Agency; Dudley Ridge Water District; Empire-West Side Irrigation District; Kern County Water Agency; Littlerock Creek Irrigation District; Metropolitan Water District of Southern California; Mojave Water Agency; Napa County Flood Control and Water Conservation District; Oak Flat Water District; Palmdale Water District; San Bernardino Valley Municipal Water District; San Gabriel Valley Municipal Water District; San Geronimo Pass Water Agency; San Luis Obispo County Flood Control & Water Conservation District; Santa Clara Valley Water District; Solano County Water Agency; and Tulare Lake Basin Water Storage District.

1121 L Street, Suite 1050 • Sacramento, California 95814-3914 • 916.447.7357 • FAX 916.647.2734 • www.swc.org

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3 **Organization: State Water Contractors (SWC)**

4 **Response to Comment SWC 1** – Comment noted.

5 **Response to Comment SWC 2** – Comment noted.

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1 **6.2.10 Individual: Janet McCleery (McCleery)**

From: [Janet McCleery](#)
To: yearwatertransferscomments_peiraddendumsingle@DeltaCouncil
Subject: Single Year Transfer Options
Date: Friday, May 13, 2016 3:49:05 PM

I am one hundred percent opposed to single year transfers of water if the water being transferred is coming from the privately-owned (or partially-privately-owned) Kern Water Bank. To continue to allow Corporate farmers to make multi-millions of dollars in water transfers, moving their subsidized agricultural water out of Kern Water Bank to L.A. Developers and the Mojave Developers is unconscionable.

McCleery
1

Jan
Janet McCleery | jmccleery@duckpondsoftware.com
www.duckpondsoftware.com | Cell: (925) 978-6563

2
3 **Individual: Janet McCleery (McCleery)**

4 **Response to Comment McCleery 1** – Comment noted.

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1 **6.2.11 Individual: Terry Spragg (Spragg)**

From: [Terry Spragg](#)
To: [yearwatertransferscomments_peiraddendumsingle@DeltaCouncil](#)
Cc: [fernandop@westbasin.org](#); [Gloria Gray](#); [richardn@westbasin.org](#); [Kightlinger, Jeff](#); [sarakewa@mwdb2o.com](#); [Clifford Goudey](#); [Beva Fazio](#); [Kevin Hunt](#)
Subject: DELTA DISASTER COMMENTS
Date: Friday, May 13, 2016 10:49:53 AM
Attachments: [Delta Cover Letter to DWR from Cliff re Fabric pipeline preliminary proposal.htm](#)
[Delta DWR Emergency Fabric Pipeline Proposal August 2011.pdf](#)

Spragg & Associates would like to request that the attached presentation we were asked to prepare for DWR on our proposal to test and develop an emergency fabric pipeline for the Delta in case of a major earthquake that causes Delta levees to collapse, thereby exposing the Delta to significant salt water contamination, possibly disrupting Delta water deliveries to Southern California, Silicon Valley, and the southern San Joaquin Valley for up to two years or more, would be included in your draft PEIR for review and comments.

Spragg & Associates would be happy to answer any questions anyone may have regarding our proposal to test and demonstrate our emergency fabric pipeline in the Delta.

TERRY SPRAGG

Spragg
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3 **Individual: Terry Spragg (Spragg)**

4 **Response to Comment Spragg 1 – Comment noted.**

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Section 7 References

- 1
- 2 California Department of Finance. 2016. *E-4 Population Estimates for Cities, Counties, and the State,*
- 3 *2011-2016 with 2010 Census Benchmark.* Website accessed August 15, 2016 at
- 4 <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-4/2011-20/>.
- 5 Cooper (Cooper, Dustin C.). 2015. *Single-Year Water Transfers and the Delta Plan.* September 24.
- 6 Council (Delta Stewardship Council). 2013a. *Final Delta Plan Program Environmental Impact Report.*
- 7 May.
- 8 Council (Delta Stewardship Council). 2013b. *The Delta Plan.*
- 9 Council (Delta Stewardship Council). 2015a. *Thursday, July 23 and Friday, July 24, 2015, Delta*
- 10 *Stewardship Council, Meeting Summary.*
- 11 Council (Delta Stewardship Council). 2015b. *Thursday, September 24, 2015, Delta Stewardship Council,*
- 12 *Meeting Summary.*
- 13 Council (Delta Stewardship Council). 2015c. *Thursday, November 19, 2015, Delta Stewardship Council,*
- 14 *Meeting Summary.*
- 15 Council (Delta Stewardship Council). 2015d. *Thursday, December 17, 2015, Delta Stewardship Council,*
- 16 *Meeting Summary.*
- 17 DWR (California Department of Water Resources). 2013. *Status of Water Transfers in California.*
- 18 DWR (California Department of Water Resources). 2014a. *2014 Water Transfers Under Water Code*
- 19 *Section 1725.*
- 20 DWR (California Department of Water Resources). 2014b. *2014 Transfers Requiring Use of DWR*
- 21 *Facilities.*
- 22 DWR (California Department of Water Resources). 2015a. *Water Transfers.* September 24.
- 23 DWR (California Department of Water Resources). 2015b. *2015 Water Transfers Under Water Code*
- 24 *Section 1725.*
- 25 DWR (California Department of Water Resources). 2015c. *2015 Transfers Requiring Use of DWR*
- 26 *Facilities.* October 5.
- 27 DWR (California Department of Water Resources). 2016. *Dayflow Data Through Water Year 2015.*
- 28 Website accessed April 21, 2016 at <http://www.water.ca.gov/dayflow/output/Output.cfm>.
- 29 DWR and Reclamation (California Department of Water Resources and Bureau of Reclamation). 2015.
- 30 *Draft Technical Information for Preparing Water Transfer Proposals (Water Transfer White*
- 31 *Paper), Information for Parties Preparing Proposals for Water Transfers Requiring Department*
- 32 *of Water Resources or Bureau of Reclamation Approval.* December.
- 33 DWR and SWRCB (California Department of Water Resources and State Water Resources Control
- 34 Board). 2015a. *Background and Recent History of Water Transfers in California.* July.
- 35 DWR and SWRCB (California Department of Water Resources and State Water Resources Control
- 36 Board). 2015b. *Water Transfers and the Delta Plan. A Report to the Delta Stewardship Council.*
- 37 September.

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- 1 Herbold (Herbold, Bruce, PhD). 2015. Slides presented at the September 24, 2015 Council Meeting.
2 September 24.
- 3 NMFS (National Marine Fisheries Service). 2009. *Biological Opinion and Conference Opinion on the*
4 *Long-Term Operations of the Central Valley Project and State Water Project*. June.
- 5 Reclamation (Bureau of Reclamation). 2008. *Biological Assessment on the Continued Long-term*
6 *Operations of the Central Valley Project and the State Water Project*. August.
- 7 Reclamation (Bureau of Reclamation). 2014. *Draft Environmental Assessment, Contra Costa Water*
8 *District Transfer with Alameda County Water District, EA-14-028*. May.
- 9 Reclamation (Bureau of Reclamation). 2015. *Coordinated Long-Term Operation of the Central Valley*
10 *Project and State Water Project. Final Environmental Impact Statement*. November.
- 11 Reclamation and SLDMWA (Bureau of Reclamation and San Luis & Delta-Mendota Water Authority).
12 2014. *Revised Environmental Assessment/Initial Study, 2014 San Luis & Delta-Mendota Water*
13 *Authority Water Transfers*. October.
- 14 Reclamation and SLDMWA (Bureau of Reclamation and San Luis & Delta-Mendota Water Authority).
15 2015. *Long-Term Water Transfers Environmental Impact Statement/Environmental Impact*
16 *Report, Final*. March.
- 17 TNC (The Nature Conservancy). 2015. *Ecological Considerations for Water Transfers, A Presentation to*
18 *the Delta Stewardship Council*. September 24.
- 19 USFWS (U. S. Fish and Wildlife Service). 2008. *Biological Opinion on the Coordinated Operations of*
20 *the Central Valley Project and State Water Project in California*. December.
- 21
- 22