



May 27, 2009

Honorable Mike Chrisman  
Secretary for Natural Resources  
California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Subject: Request for Concurrence in the use of the Emergency Exemption Provisions of CEQA for the Water Transfer from Oakdale Irrigation District (OID), South San Joaquin Irrigation District (SSJID), Modesto Irrigation District (Modesto ID), Turlock Irrigation District (TID) and Merced Irrigation District (MID) to the San Luis & Delta-Mendota Water Authority (SLDMWA).

Dear Honorable Secretary Chrisman,

This letter is to request your concurrence in the use of the Emergency Exemption Provisions of CEQA for the subject water transfer pursuant to the Governor's February 27, 2009, Proclamation of a State of Emergency issued in response to the third consecutive year of drought in California.

The Emergency Proclamation allows for SLDMWA to use the Emergency Exemption Provisions of CEQA if it receives concurrence from the Secretary of the California Environmental Protection Agency and the Secretary of the California Natural Resources Agency. Attached is a copy of the Notice of Exemption that SLDMWA would like to file with the State Clearinghouse in the next few days to keep this water transfer on schedule.

This water transfer is being implemented to provide critical water supplies from willing sellers from the eastside of the San Joaquin Valley to willing buyers on the water short westside of the San Joaquin Valley. It is ready for implementation and will be implemented in a manner that mitigates for the environmental impacts as referenced in the attached application.

Please sign below if you concur that the SLDMWA's use of the Emergency Exemption Provisions of CEQA for the subject transfer is appropriate under the Governor's February 27, 2009 Emergency Proclamation.

Best Regards,

Daniel G. Nelson  
Executive Director

CONCUR-

Mike Chrisman  
Secretary for Natural Resources Agency

Date

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## APPLICATION FOR SECRETARIAL DETERMINATION REGARDING DROUGHT EMERGENCY PROJECT

Applicant:

Entity Name	San Luis & Delta-Mendota Water Authority
Street Name	P.O. Box 2157
City, State Zip	Los Banos, CA 93635
Telephone/Fax	Phone:209-832-6200 Fax: 209-833-1034
Email	frances.mizuno@sldmwa.org

Project Title: Water Transfer from Oakdale Irrigation District (OID), South San Joaquin Irrigation District (SSJID), Modesto Irrigation District (Modesto ID), Turlock Irrigation District (TID) and Merced Irrigation District (MID) to the San Luis & Delta-Mendota Water Authority (SLDMWA).

Project Location-Specific:

San Joaquin, Stanislaus, Merced, Fresno, Kings, San Benito, Santa Clara and Tuolumne Counties.

Project Description:

One-year water transfers from Oakdale, South San Joaquin, Merced, Modesto and Turlock Irrigation Districts to the San Luis & Delta-Mendota Water Authority for a portion of each District's Pre-1914 Water Rights water, for a combined total transfer of up to 55,000 acre feet. The water will be released into the Merced, Stanislaus and Tuolumne Rivers during the months of July-September 2009. The water will be pumped at the State Water Project's (SWP) Bank Pumping Plant utilizing its excess SWP excess capacity.

Name of Public Agency Approving Project:

OID, SSJID, MID, TID, Modesto ID, SLDMWA, California Department of Water Resources (DWR) for wheeling and United States Bureau of Reclamation (Reclamation)

Nature, Purpose and Beneficiaries of Project:

The up to 55,000 acre-feet of water will be made available to water users within the service areas of SLDMWA Participating Member Agencies beginning in late June/early July to provide irrigation water during the irrigation season to supplement the current extreme water shortage situation due to dry conditions, and regulatory and operational constraints. The SLDMWA Participating Member Agencies are south-of-Delta CVP agricultural water service contractors within

the San Joaquin Valley that are the most impacted by the drought. The current allocation to these contractors is 10 percent. Due to recent precipitation, Reclamation may be able to provide an additional 5% increase in supply, although no such increase has been announced as of May 22, 2009.

Exemption or Suspension Status: (Check one)

- Declared Emergency [PRC, Sec.21080(b)(3);21172]  
 Emergency Project [PRC, Sec.21080(b)(4); 14 CCR, Sec. 15269(c)]  
 Suspension of Water Code section 13247

Reasons Why Project is Exempt:

**21080(b)(4) This project satisfies the Proclamation and the elements of the emergency statutory exemptions as an activity that prevents or mitigates the effects of the drought.**

On February 7, 2009, the Governor issued a Proclamation declaring a state of emergency resulting from drought conditions in the state. Due to extremely dry conditions, regulatory and operational constraints, the allocation of the CVP agricultural water service contractors south of the Delta is 10 percent. Due to recent rains, it is forecasted that the Bureau of Reclamation may increase the allocation by 5 percent.

CVP south of Delta agricultural water service allocation is further curtailed by water needs for special status species. Recently imposed limitations on water use to protect endangered species include a December 2008 Biological Opinion for delta smelt, the listing of long-fin smelt as threatened and the uplisting of delta smelt to endangered status under California's Endangered Species Act of March 4, 2009. Further restrictions to protect salmonids and marine mammal species are expected to be imposed in the forthcoming National Marine Fisheries Services' Biological Opinion on the Long-Term Operations Criteria and Plan (OCAP) for the Central Valley Project and State Water Project (DWR Report at p. 15).

This drought event is also unlike past droughts because California agricultural industry has also shifted to higher value permanent crops. Due to the investments necessary for such crops, changing crop patterns and land fallowing are not available options. (*ibid.*) Economic losses in the Central Valley in 2009 are projected to range between \$1.6 billion to \$2.2 billion. Job losses are projected to range between 60,000 to 80,000. Agricultural users are scheduled to receive 10% of their allotment of CVP water this year.

In sum, as result of the limited Project supplies, it is estimated that close to 300,000 acres of agricultural land will be fallowed this year. Water transfers can provide supplemental supplies to help mitigate the devastating crop losses or risks to human, health and safety. The Project will help maintain property, including crops, orchards, and vineyards, that may be damaged or destroyed as a result of the drought and is necessary to mitigate the emergency.

Explanation of How Project Serves the Purposes of the Drought Proclamation:

To combat the dire water supply conditions, the Governor ordered immediate action to manage the crisis. These actions include facilitating water transfers to regions hardest hit by the drought. This project will specifically provide immediate water supply to the Westside of the San Joaquin Valley most impacted by the drought. It will provide up to 55,000 acre-feet of water to permanent crops and help reduce further revenue and crop losses affecting the agricultural communities. Currently the total of all estimated water transfers to the SLDMWA Member Districts is 125,000 acre-feet. This includes transfers from the Drought Water Bank, the Yuba County Water Agency transfer and this project. This water transfer of 55,000 acre-feet makes up 44 percent of the total estimated water from water transfers to the Water Authority region. For reference, each 45,000 AF of South of Delta deliveries represent approximately 5% of historic deliveries into the service area.

Describe Any Actions Related to the Project that the Applicant is Taking to Protect the Public and the Environment:

In order to protect the public and the environment, the following parameters within which this transfer will be conducted are:

- A. For any transfer of this project water through the Delta, DWR and Reclamation will continue to operate the Projects in accordance with the 2008 delta smelt biological opinion, which analyzed the effects of a maximum of 600,000 acre-feet of transfers exported from July-September.
- B. Carriage loss will be deducted from the water transferred through the Delta.
- C. The total quantity of water delivered to the CVP contractors as a result of this transfer will not exceed historic average deliveries.
- D. This transfer will not result in the net loss of San Joaquin River flows.
- E. The movement of this transfer water as much as possible shall be scheduled for release in the San Joaquin River to augment flows and benefit water quality on the summer months.
- F. All transfers will be subject to SWRCB requirements for use of the joint point of diversion.

- G. All recipients of transferred are subject to the Water Management Plans of SLDMWA Participating Member Agencies, which have been determined to be consistent with Reclamation guidelines.

Frances Mizuno Assistant Executive Director 209 832-6200  
Applicant Contact Person Title Phone Number

Frances Mizuno  
Applicant Signature

5/27/09  
Date

For Agency Use Only

I hereby determine that this project falls within one or more of the exemptions and suspension referenced in paragraph 17 of the Governor's Drought Emergency Proclamation dated February 27, 2009. This determination may be signed in counterparts.

\_\_\_\_\_  
Linda S. Adams  
Secretary for the Environmental  
Protection Agency

Date

Mike Chrisman 6/6/09  
Mike Chrisman Date  
Secretary for Natural Resources

SUPPLEMENTAL SUPPORT DOCUMENTATION  
FOR CEQA WAIVER APPLICATION  
SUBMITTED TO THE CALIFORNIA RESOURCES AGENCY &  
THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
July 6, 2009

**HOW THE PROPOSED TRANSFER WILL MODERATE CROP LOSSES AND  
HUMAN HEALTH AND SAFETY IMPACTS CAUSED BY THE WATER  
SHORTAGE IN THE CENTRAL VALLEY**

Expedited water transfers are the only immediate mechanism available to increase the water supply desperately needed in this region. The Oakdale (OID) and South San Joaquin Irrigation Districts' (SSJID) proposed transfers will have many benefits to moderate the impacts of the water supply shortage including:

The benefits to crop production:

1. Will be used to irrigate row crops that have already been planted to harvest that otherwise may not survive or harvested with much reduced yield.
2. Will provide opportunity for planting additional acres of fall/winter row crops that otherwise would remain fallow.
3. Will reduce deficit irrigation to some of the approximately 35,000 acres of deficit irrigated almond orchards to ensure long term survival of the trees.
4. Will save some of the 16,000 acres of almond trees that is expected to be taken out of production.
5. Will benefit other permanent crops such as pistachio and grapes from being deficit irrigated.

The benefits to groundwater:

6. Will allow reduction in groundwater pumping thereby reducing the overdraft of the aquifer. Reduction in groundwater pumping will also reduce subsidence particularly within Westlands Water District and minimize resulting permanent damage to property such as canals, dwellings, roads, etc. There is a great concern by the DWR that the extended overdraft of the aquifer in this area will exacerbate the subsidence in the area and cause damage to the California Aqueduct which occurred during the 1977 drought period. (July 5, 2009 San Jose Mercury News article, Attachment 1)
7. Reducing application of high saline groundwater will reduce salt load on the irrigated lands and improve crop production.

General benefits:

8. Will allow water managers opportunity to manage for future needs through rescheduling for the following agricultural season to address inevitable shortages. This tool is critical for an area that anticipated chronic shortages.

The benefits to Health and Human Safety:

9. With additional water, more farmers will be able to sustain their farms and put more farm workers to work and keep businesses open in the rural communities of the San Joaquin Valley currently hard hit by the water shortage crisis. (See section in the Background section describing the impacts to the rural communities.)

The benefit to the San Joaquin River flows and water quality in the south Delta:

10. Due primarily to three consecutive below normal precipitation years there is concern about flows and water quality in the San Joaquin River and the South Delta Region. It is expected that the water released for these transfers will assist in the San Joaquin River flow and South Delta water quality in summer and early fall, traditionally critical seasons for water quality in dry years.

DWR and USBR models indicate that at key times this summer releases of water for these transfers may be needed to assist meeting flow and quality targets.

No Impact to Oakdale and South San Joaquin Groundwater Aquifer:

The lands within these two districts do not overly over-drafted groundwater aquifers. Therefore, we can commit that pumping will not take place within over drafted aquifers.

No Impact to San Joaquin River Surface flows:

This water is conveyed through the Stanislaus River and the San Joaquin River and diverted at Banks Pumping Plant in release pattern that is coordinated and approved by both the Department of Water Resources and the Bureau of Reclamation and therefore will not adversely affect surface flows. In fact, the State Water Resources Control Board have been advised that this particular transfer will be utilized and released in a manner that will benefit the SWP and CVP in meeting water quality objectives in the south Delta as this water is released during the summer months.

## **BACKGROUND**

### WATER SHORTAGES ON THE WESTSIDE

Central Valley Project (CVP) contractors south of the Delta are experiencing unprecedented cutbacks to their water supply. Since 1992, the implementation of several federal and state regulations has restricted the operations of the CVP (Attachment 2). The most recent has been the release of the Delta Smelt and Salmon Biological Opinions

under the Endangered Species Act. These recent Biological Opinions when layered on prior regulations and coupled with the 3<sup>rd</sup> consecutive below normal precipitation year has resulted in a 10% CVP allocation to 24 water districts serving close to 1,000,000 acres of farm land. This is the lowest allocation in the history of the operations of the CVP which made its first deliveries in 1952.

#### WHAT THE WESTSIDE RESPONSES HAVE BEEN TO WATER SUPPLY CUTBACKS IN RECENT YEARS PRIOR TO THE BIOLOGICAL OPINION AND CURRENT DROUGHT SITUATION

Efficient Irrigation. This region has invested tens of millions of dollars in high tech irrigation to spread the minimum water supply to keep as many acres as possible in production. They growers in this region are acknowledged as world leaders in irrigation efficiency and production.

Water Transfers. The Westside is also on the leading edge of water marketing. It became evident early on in the evolution of regulatory cutbacks that this region would need to supplement its CVP contract supply with water transfers. This region has been very active on the state-wide market as well as having an active regional market. Transfers along with conservation have assisted this region in minimizing impacts to the cutbacks and keeping land in production.

Crop Changes. In order to be able to compete on the open water market farmers realized that they would have to turn to more high valued crops. Almonds, pistachios, lettuce and other high valued crops have replaced cotton, wheat and other row crops traditionally grown on the Westside.

Groundwater. Groundwater in the Westside is inconsistent in both availability and quality; none-the-less this region has been forced to resort to groundwater pumping more than it can on a sustainable basis. Over-drafting, resulting land subsidence and water quality are all concerns that are intensifying as a result of the new Biological Opinions and low allocations of CVP water and is aggravated further during extended drought years.

Rescheduling. CVP contractors have been allowed to carry-over unused water from one year to the next with storage and conveyance agreements. This has provided for a more efficient management of the water over time. Given chronic shortages farmers need to manage and plan their water supply over multiple growing seasons. This is especially true for permanent crops which need to be provided water each and every year. This is a critical tool, especially for an area that anticipates chronic shortages.

Land Fallowing. Notwithstanding the implementation of the measures above, over the last 20 years the Westside has not had enough water to keep all 1,000,000 acres in production. The region has averaged around 100,000-150,000 fallowed acres annually over the past several years. Land fallowing has the biggest regional economic impact. It affects the farmer, the farm worker, the agricultural purveyors, local economy and

ultimately the State of California. The San Joaquin Valley's economy is an agriculture based economy. When land isn't farmed, it directly affects the economy and rural communities.

### IMPLICATIONS OF THE RECENT BIOLOGICAL OPINIONS AND DROUGHT

Biological Opinions. During the course of the last couple of years, the Delta Smelt and Salmon Biological Opinions were challenged and ruled inadequate. In 2008 court ordered operations were implemented for the Delta Smelt. A new Biological Opinion for the Smelt has been issued and is being implemented throughout 2009 operations; a new Biological Opinion for the Winter Run Salmon has just been release and is now in effect as well.

The new Biological Opinions layer significant additional restrictions on water supply to the Westside above what has already been experienced. Prior to the new Biological Opinions modeling had indicated that the Westside would get around a 65-70% allocation in average years due to prior regulations/restrictions. With the new biological opinions in place the initial modeling results indicate the average water supply will be reduced to a 25-30% allocation range.

Drought. In addition to the regulatory restrictions on the CVP operations, California has experienced three years of below normal precipitation including a span of the driest March through June on record in 2008. Below normal precipitation reduces operational flexibility that the Projects have to deal with regulations.

**The combination of prior regulations, new Biological Opinions and below normal precipitation has resulted in a 10% allocation for 2009, (the lowest allocation in the history of the CVP), over 300,000 acres of land fallowed and a crisis for the Westside.**

### HUMAN HEALTH AND SAFETY AND PROPERTY IMPACTS

Howitt Findings. Dr. Richard E. Howitt, a professor in the Department of Agricultural and Resource Economics at UC Davis did an analysis of the Economic Impacts of Reductions in Delta Exports on Central Valley Agriculture, (Attachment 3a). He updated this study to take into consideration changes that have occurred to reflect current impacts, (Attachment 3b). Howitt concluded that modeling results show that substantial reductions in available water from CVP and SWP deliveries, as well as reduced local supplies to the eastern regions will severely reduce Central Valley income, employment, revenues and cropped acres. Howitt, in his updated analysis indicate that nearly \$1 billion dollars of lost income and 35,000 jobs lost" are as a result of this year's water shortage.

Community Impact / Human Health and Safety. In a recent hearing in front of the state Board of Food and Agriculture Secretary A. G. Kawamura said, "With this regulatory

and geologic drought, we've seen really how agriculture touches every life. Especially in this region, so many lives are being affected beyond the farmers and farm workers . . . The communities impacted go well beyond the farm sector. . . **This state, more than any other in the nation, believes in environmental protection, but there is a need for flexibility, both for infrastructure and for regulations, and for agencies to move away from black-and-white to what works in a crisis.**" (6/25/09 Fresno Bee article, Attachment 4)

At that same hearing Mendota Mayor Robert Silva and Firebaugh City Manager Jose Antonio Ramirez both described high unemployment and lower sales tax that are forcing them to make painful cuts to their cities' services. Fresno County Supervisor Phil Larson added that farm woes are driving unemployment higher and sales tax and property tax revenues lower in the county. Larson said "Farmers are getting frustrated, even to the point of losing their farms, but forget about the farmers – look at the people, the school kids, the food lines."

Fresno County has recently reported 15.4% unemployment and the Westside cities some with the highest unemployment in the nation including Mendota, 38.8%; Huron, 35.5%; San Joaquin, 34.9%; Firebaugh, 26.1%; Kerman, 19.4%.

On June 19, 2009 Governor Arnold Schwarzenegger requested a federal disaster declaration from President Obama for Fresno County and issued Executive Order S-11-09, activating the California Disaster Assistance Act. The reason for this declaration is entirely due to the lack of water supply in the Central Valley, which has resulted in exacerbated unemployment, and the local emergency food banks are struggling to meet the demands of hungry families in Fresno County.

The Governor himself said as a part of his press release for issuing the Executive Order, "California's Central Valley is our nation's agricultural engine and unemployment here is devastating the economy and hurting the people of California. These are dire circumstances – no water means no work= and no work means people cannot feed their families. This drought is truly an emergency, and the actions we are taking today show how government can still work for the people when they need it most."

The City of Fresno recently adopted a resolution (Attachment 5) which recitals included in part:

- Whereas, curtailments in water supplies result in decreased economic activity, losses in employment, community and family hardships;
- Whereas, said water supply shortages have created severe economic crises and great hardship for families and communities throughout Fresno County;
- Whereas, reduced Delta water deliveries from State and Federal water projects to Fresno County and the State will continue to sharply retard any economic recovery, especially in the San Joaquin Valley;
- Whereas, without regulatory and/or legislative relief, water supply shortages impacting Fresno County and the entire State will have lasting and possibly irreversible impacts.

And resolved in part:

- That the Mayor and the Council acknowledge and support the Governor of California's declaration of a State of Emergency in February and declaring a major disaster for Fresno County on June 19, 2009, due to drought conditions;
- That the Mayor and Council acknowledge and support the Governor's request to the President of the United States requesting the President to declare a major disaster for Fresno County, due to drought conditions and call upon the President to do so;
- Furthermore, the Mayor and council authorize and directs that a copy of this resolution be forwarded to the Governor and Legislators of the State of California demanding (in part):
  - (i) Regulatory and legislative relief from Delta pumping restrictions and reduced water supply deliveries.

**In the farming community of Mendota crime is up 100%, officials reported. In a recent CBS 47 News interview (Attachment 6), Fresno County District Attorney Elizabeth Egan said that the spike is tied to the water crisis.**

A June 6, 2009 Los Angeles Times article (Attachment 7) headlines, "Despair flows as fields go dry and unemployment rises. San Joaquin Valley farms are laying off workers and letting fields lie fallow as their water ration falls."

Implications to groundwater. As both agricultural and urban water users resort to increased uses of groundwater (if/when available), concerns about overdraft, subsidence and water quality increase. As subsidence occurs irreparable damage could occur to the aquifer as subsurface storage capacity is reduced. In addition, subsidence causes a tremendous amount of irreparable surface property/infrastructure damage to canals, dwellings, roads, etc.

Westside farmer Shawn Coburn recently reported to the state Board of Food and Agriculture about wells beginning to dry up throughout the Westside. Well owners are forced to either deepen their wells or in some cases abandon them. These are indicators of severe groundwater problems.

Groundwater quality throughout the Westside is inconsistent and generally on the salty side – to varying degrees. Groundwater quality can vary from around 250 tds – 5,000 tds. Water quality has short term impacts to crops as well as long term impacts by increasing salt content in the soils and potentially exacerbating drainage problems. There is concern about the future effects that salt build-up will have upon the soil.

Impacts to Permanent Crops. Farmers with permanent crops will use any water available to 1) keep their trees alive; 2) use to supplement supplies to yield a crop. Many permanent crops will be deficit irrigated, which means that less than an optimal amount of water will be applied in order to sustain a crop and perhaps produce some nominal level of production. As an example, of the 107,000 or so acres of almonds in the region,

up to 15% are expected to be destroyed and another 33% are expected to be deficit irrigated. Some acreage has also been reportedly chemically treated to prevent the sets of nuts upon the trees so that the level of deficit irrigation can be further increased.

The actual effects of these management actions will take time to manifest and may not be fully quantifiable for years to come.