

**PROPOSITION 1 WATER STORAGE INVESTMENT PROGRAM
CONTRACT FOR ADMINISTRATION OF PUBLIC WATER QUALITY BENEFITS
HARVEST WATER PROGRAM**

This Contract for Administration of Public Water Quality Benefits (Contract) is made and entered into by and between the California State Water Resources Control Board (State Water Board) and the Sacramento Regional County Sanitation District (Regional San) (together, the Parties) for the Harvest Water Program (Program).

RECITALS

- A.** In November 2014, California voters approved Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Wat. Code, §§ 79700-79798) to provide funding for more reliable water supplies, the restoration of important species and habitat, and a more resilient and sustainably managed water infrastructure.
- B.** Chapter 8 of Proposition 1 (Wat. Code, §§ 79750-79760) dedicated \$2.7 billion for investments in water storage projects that improve the operation of the state water system and provide a net improvement in ecosystem and water quality conditions. The California Water Commission (CWC) administers the Water Storage Investment Program (WSIP) to fund the public benefits associated with these projects. Through a rigorous selection process, the CWC made seven maximum conditional eligibility determinations (MCEs), one for each WSIP project. The MCE represented the maximum amount of state funding a WSIP project was eligible for at the time of the determination, based on the CWC's estimate of public benefits to be provided by each WSIP project. Public benefits provided by WSIP projects may include flood control, ecosystem benefits, water quality improvements, emergency response, and recreation.
- C.** Each WSIP project must enter into a contract with each public agency that administers the public benefits, after that agency makes a finding that the public benefits of the project for which that agency is responsible meet the relevant requirements of Water Code section 79750 *et seq.*
- D.** The CWC is the funding grantor of WSIP projects. The CWC awards final funding after all requirements for allocation of funds enumerated in Water Code section 79755 are complete for the project.
- E.** Under the federal Clean Water Act (CWA) and the state Porter-Cologne Water Quality Control Act, the State Water Board has regulatory responsibility for protecting the water quality of nearly 1.6 million acres of lakes, 1.3 million acres of bays and estuaries, 211,000 miles of rivers and streams, and about 1,100 miles of California coastline. Pursuant to its statutory duties, the State Water Board is responsible for making a finding that the public water quality benefits of a project meet all requirements of Water Code section 79750 *et seq.*, and for entering into a contract with each project proponent to administer the public water quality benefits. (Wat. Code, § 79755; Cal. Code Regs., tit. 23, § 6013, subd. (c)(2).)

- F.** Sacramento Regional County Sanitation District (Regional San) is a county sanitation district pursuant to and operating under the County Sanitation Act, commencing at California Health and Safety Code section 4700, et seq., which provides regional wastewater conveyance and treatment service. Regional San owns and operates a regional wastewater conveyance system, wastewater treatment plant, and recycled water system in Sacramento County.
- G.** The Harvest Water Program (Program), is a conjunctive use project to store and manage groundwater while improving stream flow, enhancing groundwater-dependent ecosystems, sustaining agricultural lands, and improving regional water supply reliability. Regional San would provide the water source for the Program of up to 50,000 acre-feet per year (AFY) of Title 22 tertiary-treated recycled water. Water produced from the Program would be used to irrigate approximately 16,000 acres of agricultural lands in Sacramento County near the lower Cosumnes River and Stone Lakes National Wildlife Refuge. Currently, treated wastewater from Regional San's Wastewater Treatment Plant is discharged into the Sacramento River near Freeport, CA. The delivery of recycled water under the Program will result in reduced salt-loading (measured as total dissolved solids [TDS]) to the lower Sacramento River and Sacramento-San Joaquin River Delta (Delta) waterways. The reduction in mass loading of salts to the river will incrementally lower the electrical conductivity (another measure of salts) in the lower Sacramento River and downstream waterways of the Delta.
- H.** The Parties recognize that the purpose of the Program is to provide both public and non-public benefits. (Wat. Code, § 79753, subd. (a); Cal. Code Regs., tit. 23, § 6001, subd. (a)(53).) This Contract only covers the Public Water Quality Benefit. Regional San controls operation of the Program.
- I.** The CWC deemed the Program feasible as required by Water Code section 79755, subdivision (a)(5)(B) on October 20, 2021.
- J.** Pursuant to Water Code section 79755, subdivision (a)(3), the State Water Board finds the following Public Water Quality Benefit resulting from the Program meets all of the requirements of Water Code section 79750 *et seq.*: Improvement of salinity conditions in the lower Sacramento River and Delta, including portions of the Delta (Western Portion, Southern Portion, and Export Area) listed as impaired for electrical conductivity.
- K.** The purpose of this Contract is to ensure that public contribution of funds pursuant to Chapter 8 of Proposition 1 for the Program achieves the Public Water Quality Benefit identified for the Program and described herein. (Wat. Code, § 79755.) This Public Water Quality Benefit will be achieved by Regional San implementing agreed-upon Project Implementation Actions, as described in this Contract, and carrying out the Adaptive Management Plan as described in Exhibit B, incorporated by reference as though set forth in full herein.

SECTION 1 ABBREVIATIONS AND DEFINITIONS

Unless the context otherwise requires, the terms defined in this section shall for all purposes of this Contract have the meanings hereinafter specified:

- A. **Adaptive Management** – shall have the same meaning as Water Code section 85052.
- B. **Adaptive Management Actions** – refers to those actions specifically identified in the Adaptive Management Plan Section 2.5.
- C. **Adaptive Management Plan** –the plan attached to this Contract as Exhibit B and which contains the elements required by California Code of Regulations, title 23, section 6014, subdivision (a)(2).
- D. **Adaptive Management Trigger (trigger)** – shall have the same meaning as California Code of Regulations, title 23, section 6001, subdivision (a)(84).
- E. **AFY** – Acre-feet per year.
- F. **Annual Summary Report** – annually required report prepared by Regional San which documents the progress and status of the Public Water Quality Benefit, as described in Contract Section 4.3.1.1.
- G. **Best Available Science** – shall have the same meaning as California Code of Regulations, title 23, section 6001, subdivision (a)(9).
- H. **Contract** – Contract for Administration of Public Water Quality Benefits.
- I. **Critically Dry Water Year** – as defined in the Sacramento Valley 40-30-30 Index
- J. **CWC** – California Water Commission.
- K. **Decision-Making Body** – the group of individuals from the State Water Board and Regional San designated by the Parties to coordinate on implementation of the Adaptive Management Plan for the Public Water Quality Benefit.
- L. **Delta** – Sacramento-San Joaquin River Delta.
- M. **Dry Water Year** – as defined in the Sacramento Valley 40-30-30 Index.
- N. **Feasible** – shall have the same meaning as California Public Resources Code section 21061.1, with the exception of the use in Recital I, above.
- O. **Funding Agreement** – California Water Commission Funding Agreement.
- P. **Future Baseline** – after Program implementation, a modeled, without-Program condition that would be compared to the concurrent, real-world, with-Program condition.
- Q. **Irrigation Season** – April 1 through October 31.
- R. **Limiting factor** – A factor which prevents the Program from achieving conditions at or above Adaptive Management Triggers.
- S. **Meet and Confer Process** – the process outlined in Exhibit B (Adaptive Management Plan) by which the Decision-Making Body collaboratively identifies limiting factors and recommends Adaptive Management Actions.
- T. **mg/L** – milligrams per Liter.
- U. **Performance Threshold** – the full extent of Project Implementation Actions anticipated to be achieved by implementation of with-project actions (Project Implementation Actions) compared to without-project actions (Future Baseline) or pre-project conditions (Pre-Project Baseline), based on Best Available Science at the time of Contract execution.
- V. **Phase 1** – a ramp-up period for the Program; Program Years 1 through 9.
- W. **Phase 2** – Program Years 10 through the Term of the Contract.

- X. **Pre-Project Baseline** – a measurement taken prior to any Program-related actions that would directly impact the measurement.
- Y. **Program** – Harvest Water Program.
- Z. **Program Year** – a full year of Program operations capable of delivering water. For example, “Program Year 10” refers to the calendar year ten years after the Program becomes operational and capable of delivering water.
- AA. **Project** – Harvest Water Program.
- BB. **Program** – Harvest Water Program.
- CC. **Project Implementation Actions** – foundational actions a project must execute for derivation of Public Water Quality Benefits.
- DD. **Public Benefit Dispute Process** – the procedure by which the State Water Board and Regional San seek to resolve any disagreement about the outcome of the Meet and Confer Process under Section 5 of this Contract.
- EE. **Project** – Harvest Water Program.
- FF. **Public Water Quality Benefit** – shall have the same meaning as California Code of Regulations, title 23, section 6001, subdivision (a)(63) and Water Code section 79753, subdivision (a)(2). For the purposes of the Adaptive Management Plan, the Public Water Quality Benefit shall be comprised of Project Implementation Actions identified in the Contract for the project.
- GG. **Regional San** – Sacramento Regional County Sanitation District.
- HH. **Review Report** – Adaptive Management Plan Review Report.
- II. **Shasta Critical Year** – as defined in the Sacramento River Settlement Contracts.
- JJ. **State** – State of California.
- KK. **State Water Board** – California State Water Resources Control Board.
- LL. **Stone Lakes** – Stone Lakes National Wildlife Refuge.
- MM. **TDS** – Total Dissolved Solids.
- NN. **Water Delivery Area** – the area in which the Harvest Water Program can directly deliver water.
- OO. **Wintertime** – November 1 through March 31.
- PP. **WSIP** – Water Storage Investment Program.
- QQ. **Order WW0092** – Order issued by the State Water Board, Division of Water Rights on September 10, 2019, that conditionally approved Wastewater Change Petition WW0092 filed by Regional San.

SECTION 2 ROLES AND RESPONSIBILITIES

2.1 STATE WATER BOARD

The State Water Board has authority to administer the Public Water Quality Benefits under the WSIP. The State Water Board is exercising that authority by executing a Contract with WSIP project proponents providing Public Water Quality Benefits under WSIP to provide the Public Water Quality Benefits identified for the Contract. The Public Water Quality Benefits will be provided through a project’s performance of its Project Implementation Actions and implementation of the Adaptive Management Plan. The State Water Board will: i) provide ongoing technical expertise and guidance toward the administration, implementation, and management of the Public Water Quality Benefit; ii) participate in Public Water Quality Benefit metric tracking, evaluation, and accounting; and iii) inform the CWC of Public Water Quality Benefits provided, any Adaptive Management Actions triggered, any benefit changes, or other information deemed appropriate by the State Water Board.

2.2 REGIONAL SAN

Regional San has oversight authority for the Program and is responsible for implementation of Project Implementation Actions and Adaptive Management Actions anticipated to result in the Public Water Quality Benefit described in this Contract, including monitoring for the Public Water Quality Benefit, and reporting to the State Water Board and the CWC pursuant to California Code of Regulations, title 23, section 6014, subdivisions (a)(2)(A)(3) and (a)(2)(A)(4), respectively. Regional San may delegate elements of Program reporting or execution of the Adaptive Management Plan. However, any delegation does not relieve Regional San of its responsibility to ensure that the terms and conditions identified in the Contract are met.

SECTION 3 TERM

This Contract shall become effective upon the execution of a Funding Agreement between the CWC and Regional San. The Contract Term is 84 years, or until termination of the Funding Agreement, whichever occurs first, unless otherwise terminated or amended as provided in the Contract.

SECTION 4 PUBLIC WATER QUALITY BENEFIT

4.1 DESCRIPTION OF THE WATER QUALITY BENEFIT

Pursuant to California Code of Regulations, title 23, section 6012, subdivision (g), the State Water Board has confirmed the following benefit meets the requirements of Water Code section 79750 *et seq.*: improvement in salinity conditions in surface water bodies that are not meeting water quality standards for sodium, total dissolved solids, chloride, or specific conductance/electrical conductivity.

4.1.1.1 Improvement in salinity conditions in surface water bodies

The Program will improve salinity conditions in the Sacramento River and Delta waterways. A portion of the discharge from the Sacramento Regional Wastewater Treatment Plant (SRWTP) will be utilized for agricultural irrigation instead of being discharged to the Sacramento River and ultimately the Delta. This diversion will result in reduced total dissolved solids (TDS) loading to the Sacramento River and Delta waterways. The reduction in mass loading of salts to the Sacramento River will lower the electrical conductivity in the lower Sacramento River and downstream waterways of the Sacramento-San Joaquin Delta, including the southern portion, western portion, and export area of the Delta Waterways, which are impaired for electrical conductivity.¹

Fundamentally, the magnitude of Public Water Quality Benefit will depend on both the salinity of the recycled water and the volume of water delivered. The salinity of the water delivered by the Program will vary with the salinity of influent water to the SRWTP; the monthly average salinity of discharge from the SRWTP ranged from 470 milligrams/Liter (mg/L) to 523 mg/L in 2022. Because Regional San does not control the salinity of the influent to the SRWTP, the Contract and Adaptive Management Plan focus on recycled water deliveries under the Program.

¹ State Water Resources Control Board, 2018 Integrated Report

Starting the first full year of Program implementation (Program Year 1) through Year 9 of Program implementation (Phase 1), this Contract requires Regional San to execute landowner contracts for the delivery of at least 41,250 acre-feet per year of recycled water. To this end, the Adaptive Management Plan sets the following Program implementation milestones for Regional San:

- By Year 1 of Program implementation, landowner contract execution representing 20 percent of annual recycled water delivery will be achieved.
- By Year 3 of Program implementation, landowner contract execution representing 60 percent of annual recycled water delivery will be achieved.
- By Year 5 of Program implementation, landowner contract execution representing 100 percent of delivery of recycled water annually will be achieved.

Starting Year 10 of Program implementation through the Term of the Contract (Phase 2), this Contract requires Regional San to deliver an average of at least 41,250 acre-feet per year (AFY) (averaged over five years), with specific exceptions to account for permit restrictions and reduced wintertime demand in particularly wet months.

In consideration of existing permit restrictions, the five-year average of required deliveries will be adjusted down when deliveries in the five-year period are further restricted by permit conditions. Accordingly, the five-year average of required deliveries will reflect the following assumptions. Note that these numbers represent the maximum deliveries Regional San is permitted to make in these year types when Order WW0092 Conditions 7 and 8 are in effect; consequently, the two numbers are inputs to the five-year average adaptive management trigger as described in Exhibit B and not required minimum deliveries in any particular year:

- Delivery of 33,125 AFY in Dry and Critically Dry Years when Order WW0092 Conditions 7 and 8 are in effect, not including Shasta Critical Years.
- Delivery of 25,000 AFY in Shasta Critical Years when Order WW0092 Conditions 7 and 8 are in effect.

In consideration of functional limits on demand for recycled water in wintertime months with high precipitation, this Contract allows for a reduction in recycled water deliveries of 1,750 AFY for every wintertime month for which more than 5 inches of precipitation are registered at the NOAA precipitation gage at Sacramento Executive Airport (Sacramento Airport ASOS, CA US station [GHCND:USW00023232]).

Other conditions may limit recycled water deliveries to varying degrees; those that trigger Adaptive Management will be subject to the Meet and Confer process described in the Adaptive Management Plan (Exhibit B).

4.2 ADAPTIVE MANAGEMENT

The Parties agree that Regional San shall manage the Public Water Quality Benefit (as represented by the Project Implementation Actions) according to principles of Adaptive Management. The Adaptive Management Plan is attached hereto as Exhibit B and incorporated by reference as though set forth in full herein. Regional San must comply with all provisions of the Adaptive Management Plan.

4.3 REPORTING

4.3.1 Reporting to the State Water Board

4.3.1.1 Annual Summary Reports

Regional San shall provide an Annual Summary Report to the State Water Board by April 30, 2024. Each Annual Summary Report thereafter shall be provided by April 30 of each year. The Annual Summary Report shall document progress and current status of the Public Water Quality Benefit provided, including a description of any changes to Project Implementation Actions since the last report. After Year 42, if the Public Water Quality Benefit has been substantially achieved, the annual monitoring and reporting requirements will be reevaluated and may be reduced if agreed to by both parties.

4.3.1.2 Adaptive Management Review Reports

Adaptive Management Actions shall be reported based on the schedule established for the water quality benefit in the Adaptive Management Plan, including a five-year Adaptive Management Review Report ("Review Report") as described in Section 1.5 of the Adaptive Management Plan. All reports shall be submitted to the State Water Board's designated WSIP Manager. Reports shall include all components described in Section 1.5 of the Adaptive Management Plan. After Year 42, if the Public Water Quality Benefit has been substantially achieved, the annual monitoring and reporting requirements will be reevaluated and may be reduced if agreed to by both parties.

4.3.2 Reporting to the California Water Commission

Regional San shall provide a copy of the Annual Summary Report described in Section 4.3.1.1 to the CWC at the same time any such report is submitted to the State Water Board.

4.4 REQUIREMENT TO SHARE DATA

In addition to data required by the Annual Summary Report and the Review Report, the State Water Board may make additional specific data requests reasonably related to the administration of the Contract. Regional San shall provide data responsive to the State Water Board's request on a reasonable timeline agreed to by both Parties. If Regional San relies on data acquired by a third party and such data are not collected on behalf of Regional San, Regional San shall identify the third party which holds the data relied upon to the State Water Board. Data that could be requested include, but are not limited to, reports, modeling, and datasets.

4.5 ASSURANCES

The Parties have determined that the following provide required assurances under California Code of Regulations, title 23, section 6014, subdivision (a)(2)(A)(5):

- (1) Regional San will maintain and operate the Program through the Term of the Contract;
- (2) Regional San will maintain permits throughout the Term of the Program required to deliver irrigation and wintertime water and otherwise comply with all applicable regulations and requirements;
- (3) Regional San will not export groundwater from the Water Delivery Area until the restrictions on recycled water deliveries under Condition 7 of Order WW0092 permanently cease;
- (4) The Adaptive Management Plan will not require more water be provided by Regional San than proposed within this Contract; and
- (5) Regional San will undertake appropriate Adaptive Management Actions that are reasonable and feasible.

SECTION 5 PUBLIC BENEFIT DISPUTE PROCESS

5.1 DISPUTES OVER PUBLIC BENEFITS NOT RESOLVED BY ADAPTIVE MANAGEMENT

The State Water Board shall review the Annual Summary Report and five-year Review Report described in Section 4.3.1 of this Contract and Section 1.5 of the Adaptive Management Plan. If the State Water Board concludes, based on the Annual Summary Report, Review Report, and the Best Available Science, as applicable, that the Project Implementation Action metrics are below the associated Adaptive Management Trigger as described in the Adaptive Management Plan, the Decision-Making Body shall convene as described in Section 1.6 of the Adaptive Management Plan. If the Decision-Making Body cannot agree on the appropriate course of action as described in Section 1.6 of the Adaptive Management Plan, the State Water Board may initiate the Public Benefit Dispute Process described in this section. The decision to initiate the Public Benefit Dispute Process shall be made by the Director of the Office of Research, Planning, and Performance. The State Water Board may only initiate the Public Benefit Dispute Process when:

- The Parties disagree on appropriate Adaptive Management Actions within the Program's control identified in the Adaptive Management Plan and the State Water Board program staff determines that not adjusting Adaptive Management Actions in the manner recommended by the State Water Board will result in an insufficient Public Water Quality Benefit; or
- The Parties disagree on whether the Public Water Quality Benefit should be adjusted; or
- The Parties disagree on whether achieving the Public Water Quality Benefit continues to be feasible; or
- State Water Board program staff determines the Public Water Quality Benefit is no longer occurring due to Regional San's failure to conduct the Project Implementation Actions as described herein, and no excuse exists for such failure.

5.2 STATE WATER BOARD INITIATION OF PUBLIC BENEFIT DISPUTE PROCESS

If the State Water Board elects to initiate the Public Benefit Dispute Process, the State Water Board shall provide written notice to Regional San. The written notice shall:

- (1) State the disputed issues that prompted the Meet and Confer Process described in Section 1.6 of the Adaptive Management Plan;
- (2) Document the alternatives considered during the Adaptive Management Decision-Making Body's Meet and Confer Process described in Section 1.6 of the Adaptive Management Plan;
- (3) State whether resolution was achieved, in whole or in part, and state the specific relief, including the timeline, agreed to as part of any resolution;
- (4) Identify all outstanding issues that remain unresolved; and
- (5) Propose a solution to the remaining unresolved issues.

The State Water Board may also request additional relevant information from Regional San that may inform the State Water Board's understanding of the dispute.

5.3 REGIONAL SAN RESPONSE

Within 60 days of the State Water Board's written notification to Regional San as described in Contract Section 5.2, Regional San shall provide a written response to the State Water Board. The response shall identify the issues, propose a solution to the dispute, and respond to the State Water Board's requests for additional relevant information.

5.4 MEETINGS

Throughout the Public Benefit Dispute Process, either Party may request a meeting with the other Party at any time.

5.5 AGREEMENT ON SOLUTION; PROCESSING AMENDMENTS AS NECESSARY

If, during the Public Benefit Dispute Process, the Parties mutually agree on a solution and the solution requires an amendment to the Contract, including to the Adaptive Management Plan, the Parties shall process an amendment as described in Section 8.6 of this Contract and the CWC Funding Agreement Exhibit D, Paragraph D.3.

5.6 FAILURE TO AGREE ON SOLUTION; STATE WATER BOARD FINDING OF INSUFFICIENT PUBLIC BENEFIT

Should the Parties not mutually agree on a solution to the public benefit dispute, the State Water Board may submit a finding of insufficient public benefit to the CWC for its consideration and action pursuant to Funding Agreement paragraph 16. The decision to submit a finding of insufficient public benefit shall be made by the State Water Board Executive Director. With its finding of insufficient public benefit, the State Water Board shall provide the CWC an explanation regarding the cause of the insufficient public benefit. The explanation shall also include a description of remedial actions taken to date by Regional San, including any mitigating circumstances, the State Water Board's determination of whether the insufficient public benefit is the fault of Regional San, and the State Water Board's recommended corrective actions. The State Water Board's recommended corrective actions may include only the Project Implementation Action as specified in Section 2.1 of the Adaptive Management Plan and Adaptive Management Actions (Adaptive Management Plan Section 2.5) and that are reasonable and feasible and within Regional San's control. Regional San may also provide any information it believes is pertinent to the CWC. Should a decision by the CWC result in a change to the Program's Public Water Quality Benefit provided, the Parties shall process an amendment pursuant to Section 8.6 that appropriately reflects the ongoing obligations of Regional San.

SECTION 6 DISPUTE RESOLUTION

6.1 CONTINUING RESPONSIBILITIES

Both Parties shall continue meeting their responsibilities under this Contract during any dispute.

6.2 DISPUTES

If the Parties fail to resolve a dispute covered by Section 5 of this Contract, the State Water Board shall notify the CWC of the dispute. The Parties shall follow the procedure set forth in Section 5 of this Contract.

6.3 OTHER DISPUTES

For any other disputes not covered by Section 5 of this Contract, Parties shall attempt to negotiate a resolution to any dispute and process any amendment necessary to this Contract to implement the terms of any such resolution.

SECTION 7 SPECIFIC PERFORMANCE

In the event of a default by Regional San, as determined by the CWC following a full dispute resolution process pursuant to Section 5 of this Contract and Funding Agreement paragraphs 15 and 16 , before the Term of this Contract is complete then, in addition to any and all other remedies available at law or in equity, the State Water Board may seek specific performance of the Project Implementation Action as specified in Section 2.1 of the Adaptive Management Plan and Adaptive Management Actions (Adaptive Management Plan Section 2.5) and that are reasonable and feasible and within Regional San's control. Regional San reserves any and all rights, defenses, potential causes of action, claims, and remedies regarding any request or pursuit of specific performance under this paragraph. If after completing the aforementioned dispute resolution process, a court determines that there has been a default of any of the Project Implementation Actions or Adaptive Management Actions identified in this paragraph, the Parties acknowledge that specific performance pursuant to this paragraph is an appropriate remedy because the benefit to the State Water Board from the Program, as described in Contract Section 4 (Public Water Quality Benefit), is unique and damages would not adequately compensate the State Water Board for the loss of such benefit.

SECTION 8 GENERAL TERMS AND CONDITIONS

8.1 GOVERNING LAW

This Contract is governed by and shall be interpreted in accordance with the laws of the State of California.

8.2 SUPERSEDING PREVIOUS AGREEMENTS

This Contract supersedes all prior discussions, negotiations, understandings, or agreements of the Parties relating to the Contract or the Program.

8.3 PROJECT ACCESS

Regional San shall ensure that, for the purposes of administering the Program's Public Water Quality Benefit under WSIP, the State Water Board and the State Water Board's employees and agents have safe and suitable access to the Regional San-owned and -controlled Program site locations at all reasonable times during the Term of this Contract for the purpose of verifying and monitoring the Public Water Quality Benefit. The State Water Board shall not unreasonably interfere with Regional San's use and enjoyment of its property. The State Water Board shall notify Regional San at least five (5) business days prior to entering Regional San's property. (Cal. Code Regs., tit. 23, § 6014, subd. (a)(2)(A)(6).)

8.4 INDEMNIFY AND HOLD HARMLESS

Regional San shall indemnify and hold and save the State Water Board, its officers, agents, and employees free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of the Program and this Contract, including, but not limited to any claims or damages arising from planning, design, construction, maintenance, monitoring, verification, and/or operation of this Program, except to the extent resulting from the negligence or willful misconduct of the State Water Board, its officers, employees, and agents.

8.5 NO WAIVER

Enforcement of the terms of this Contract by the State Water Board shall be at the discretion of the State Water Board, and any forbearance by the State Water Board to exercise its rights under this Contract shall not be deemed or construed to be a waiver by the State Water Board of such term or of any rights of the State Water Board under this Contract.

8.6 AMENDMENTS

This Contract, including the Adaptive Management Plan, may be amended at any time by mutual agreement of the Parties, except insofar as any proposed amendments are in any way contrary to applicable law. No amendment shall be valid unless made in writing and signed by the Parties and agreed to by the CWC. Only persons duly authorized to sign an amendment on behalf of either Party may do so. No oral understanding or agreement not incorporated in this Contract is binding on either of the Parties. Requests by either Party for amendments must be in writing, stating the amendment request and the reason for the request. Neither Party shall have an obligation to agree to an amendment. All amendments agreed to by the Parties shall be submitted to the CWC pursuant to Funding Agreement Exhibit D, Paragraph D.3. If the Parties mutually agree to an amendment that substantially reduces, eliminates, or substantially repurposes the Public Water Quality Benefit, the Parties shall notify the Commission pursuant to Funding Agreement paragraph 17.

8.7 SUCCESSORS AND ASSIGNS

This Contract and all of its provisions shall apply to and bind the successors and assigns of the Parties. No assignment or transfer of this Contract or any part thereof shall be valid unless and until it is approved by the State Water Board and made subject to such reasonable terms and conditions as the State Water Board may impose.

8.8 SEVERABILITY

Should any portion of this Contract be determined to be void or unenforceable, such shall be severed from the whole and the Contract shall continue as modified.

8.9 INDEPENDENT CONTRACTOR

Regional San, and the agents and employees of Regional San, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State Water Board. Regional San acknowledges and promises that the State Water Board is not acting as an employer to any individuals furnishing services or work on the Program pursuant to this Contract.

8.10 PROGRAM REPRESENTATIVES

All inquiries may be directed to the Program Representatives:

James Nachbaur
WSIP Manager
State Water Resources Control Board
Mail Stop 13B
PO Box 100
James.Nachbaur@Waterboards.ca.gov

Terrie Mitchell
Harvest Water A-PMO Manager
Sacramento Regional County Sanitation
District
10060 Goethe Rd
Sacramento, CA 95827
mitchellt@sacsewer.com

Parties shall inform each other in writing of any changes to Program Representatives.

EXHIBITS

Each exhibit referenced in this Contract and listed below is incorporated by reference as though set forth in full herein.

Exhibit A – State Water Board’s Findings Regarding the Public Water Quality Benefit for the Program

Exhibit B – Water Quality Adaptive Management Plan for Harvest Water Program

IN WITNESS WHEREOF, this Contract is made and entered into in the State of California by Regional San and the State Water Board, each of which hereby agrees to the terms and conditions of this Contract.

California State Water Resources Control Board

By:

Signature:



Printed name:

Eileen Sobeck

Title:

Executive Director

Date:

June 5, 2023

Sacramento Regional County Sanitation District

By:

Signature:



Printed name:

Christoph Dobson

Title:

District Engineer

Date:

May 22, 2023

EXHIBIT A

**STATE WATER BOARD'S FINDINGS REGARDING PUBLIC WATER QUALITY BENEFITS
FOR THE HARVEST WATER PROGRAM**

State Water Resources Control Board

TO: Joseph Yun, Executive Officer
California Water Commission

FROM: Eileen Sobeck, Executive Director



DATE: May 22, 2023

SUBJECT: WATER QUALITY BENEFITS OF THE HARVEST PROGRAM
CONTINUE TO MEET ALL THE REQUIREMENTS OF CHAPTER 8, DIVISION 26.7
OF THE WATER CODE

The State Water Resources Control Board (Board) recognizes the value and importance of additional surface water and groundwater storage in California. The Water Storage Investment Program (WSIP) represents an important opportunity to invest in California's water future, ensure a more reliable and resilient water supply, and restore important species and habitat.

Each WSIP project must enter into a contract for the administration of public benefits with each public agency that administers the public benefits. The State Water Board has authority to administer public water quality benefits provided by projects under the WSIP. On May 21, 2018, the Board found that the public water quality benefit of the Harvest Water Program met the requirements of Water Code sections 79750 *et seq.*, based on a technical review of the Harvest Water Program WSIP funding application materials.

The California Water Commission regulations for the implementation of the WSIP recognize that “changes in the amount of public benefits may occur from the time of the reviewing agencies’ findings to the time an applicant enters into a contract with the reviewing agency” and require the reviewing agency, prior to entering into a contract, to confirm that the public benefits continue to meet all the requirements of Water Code section 79750 *et seq.* (Cal. Code Regulations, tit. 23, §6012, subd. (g).).

Since the Board made this finding, the Sacramento Regional County Sanitation District has further developed the Harvest Water Program, completed environmental review under the California Environmental Quality Act and secured certain critical permits necessary to deliver the public water quality benefit. After review of project changes and

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

development of a contract for the administration of public benefit, the Board finds that the water quality benefit of the Harvest Water Program continues to meet all the requirements of chapter 8, division 26.7 of the Water Code. Specifically, the delivery of recycled water under the Harvest Water Program will result in reduced salt-loading to the lower Sacramento River and Sacramento-San Joaquin River Delta (Delta) waterways. The reduction in mass loading of salts to the river will incrementally lower the electrical conductivity in downstream waterways of the Delta impaired for electrical conductivity.

cc: [via email only]

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California Water Commission
Amy.young@water.ca.gov

Anna Naimark, Undersecretary
California Environmental Protection Agency
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E. Joaquin Esquivel, Chair
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EXHIBIT B

**WATER QUALITY ADAPTIVE MANAGEMENT PLAN
HARVEST WATER PROGRAM**

**PROPOSITION 1 WATER STORAGE INVESTMENT PROGRAM
CONTRACT FOR ADMINISTRATION OF PUBLIC WATER QUALITY BENEFITS**

**HARVEST WATER PROGRAM
EXHIBIT B
WATER QUALITY ADAPTIVE MANAGEMENT PLAN**

SECTION 1 PROGRAM-WIDE APPROACH FOR ADAPTIVE MANAGEMENT AND REPORTING

1.1 OVERVIEW

The Harvest Water Program (Program) is a conjunctive use program that will use recycled water deliveries for irrigation to enhance groundwater levels, ecosystem function, and agricultural sustainability in the southern Sacramento County area. The Program would deliver up to 50,000 acre-feet per year (AFY) (with an associated salt load of approximately 85 to 100 tons per day). The Program will initially deliver about 32,500 AFY of recycled water for summertime irrigation (April – October), and, at full implementation of all Program elements, would provide up to an additional 17,500 AFY for wintertime application (November – March) for habitat benefits, primarily for Sandhill crane habitat.²

The recycled water delivery activities within the Program Area (Figure 1) are anticipated to reduce salt loads to 303(d)-listed waterways in the Sacramento – San Joaquin River Delta (Delta). This element provides a Public Water Quality Benefit under the Water Storage Investment Program (WSIP).

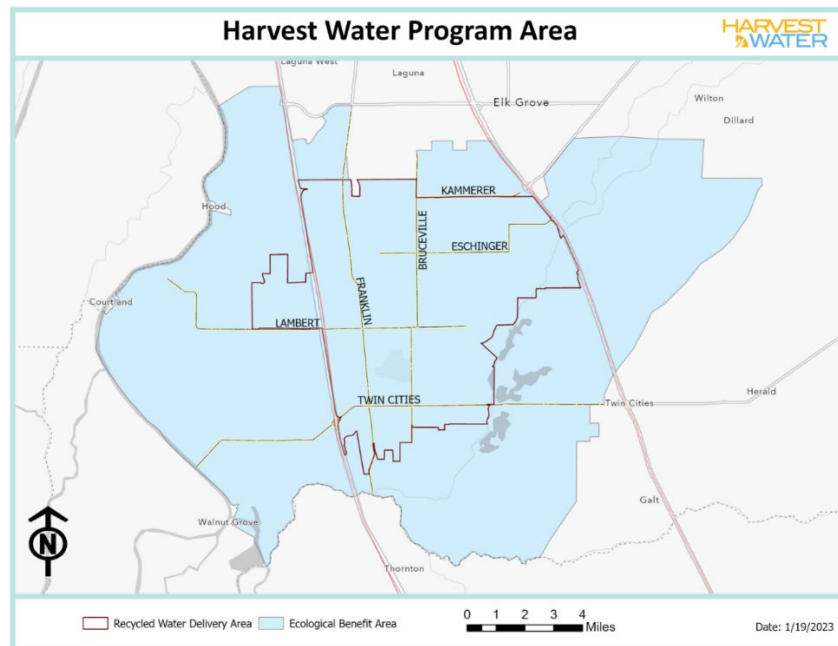


Figure 1. Overall Program Area includes the Ecological Benefits Area and Recycled Water Delivery Area.

² Ecosystem benefits such as habitat enhancement for the Sandhill Crane will be administered through California Department of Fish and Wildlife implementation of WSIP.

Volume of Recycled Water Deliveries

While the Program is designed to deliver up to 50,000 AFY of tertiary-treated recycled water, this Adaptive Management Plan assumes the Program will deliver an average of 41,250 AFY of tertiary-treated recycled water in most years, starting Program Year 10; however, in certain years, the conditions of the order issued by the State Water Resources Control Board, Division of Water Rights that conditionally approved Regional San's Wastewater Change Petition WW0092 (Order WW0092) will legally limit the volume of water that can be delivered under the Program. Wetter-than-average months may also functionally limit the volume of water that can be delivered for wintertime uses (November – March) under the Program. Both situations are described below.

Regional San may deliver water to the Stone Lakes National Wildlife Refuge (Stone Lakes) to support wetland habitat. Stone Lakes contains some wetlands that discharge to Snodgrass Slough, tributary to the Delta. Consequently, the Adaptive Management Plan specifies that any other deliveries that discharge as surface water to the Delta or tributaries, such as water delivered to Stone Lakes for wetland habitat that discharges to Snodgrass Slough, would not contribute to the Public Water Quality Benefit and will be subtracted from deliveries considered in this Contract and Adaptive Management Plan. Wetland ponds and other habitat within Stone Lakes, and other areas within the recycled water delivery area, including Cosumnes River Preserve, that do not discharge to surface waters of the State or United States, would not have water delivery values subtracted from the deliveries considered in this Contract and Adaptive Management Plan.

Wastewater Change Petition WW0092

Water delivery is subject Order WW0092. In protest dismissal negotiations,³ Regional San agreed to two conditions that affect water deliveries in Dry and Critically Dry water years and Shasta Critical years. These two conditions were incorporated into Order WW0092 as Conditions #7 and #8.

Condition #7: As summarized in Order WW0092, “the condition includes restrictions on Regional San’s reduction of wastewater discharges during the irrigation season (April through October) in Dry and Critically Dry Years. The restrictions will be required until Regional San has demonstrated certain threshold criteria regarding groundwater levels. The criteria include three consecutive biennial groundwater model simulations that show a net in-lieu groundwater recharge of 400,000 acre-feet (AF) and 50 percent return of flows to surface water as a result of the Program.” (Order WW0092, p. 4). Dry and Critically Dry water years are defined in the Sacramento Valley 40-30-30 Index and Shasta Critical years are defined in the Sacramento River Settlement Contracts and herein.

Condition #8: As summarized in the Order WW0092, the condition “requires Regional San to coordinate the Program’s recycled water deliveries in Critically Dry Years with relevant resource agencies, including [the U.S. Bureau of Reclamation] and [the Department of Water Resources], to avoid thermal impacts to the Sacramento River

³ As part of processing petitions to change the point of discharge, place of use, or purpose of use of treated wastewater, if necessary, the State Water Board publishes a notice of the petition and interested persons may file a “protest” alleging interference with prior water rights, adverse environmental impacts, or other specific concerns. The State Water Board must address the protests. If the applicant and the protestant can agree to mutually acceptable conditions, the protest is resolved at that point in the process.

below Lake Shasta. In addition, the condition requires that until Regional San has met the previously described threshold criteria [see Condition #7], certain storage levels in Lake Shasta will also require reduction of deliveries of recycled water.” (WW0092, p. 4.)

Consequently, this Adaptive Management Plan assumes that, starting Program Year 10, the Program will deliver:

- An average of 33,125 AFY in calendar years that overlap with the irrigation season of a Dry or Critically Dry Water Year when Order WW0092 Conditions 7 and 8 are in effect, not including Shasta Critical Years.
- An average of 25,000 AFY in Shasta Critical Years when Order WW0092 Conditions 7 and 8 are in effect.

Wet months and wintertime deliveries

In some cases, significant precipitation or flooding during wintertime months could impair or preclude Regional San’s ability to deliver recycled water for agricultural operations or habitat enhancement, such as for sandhill cranes: fields saturated or flooded by precipitation cannot accommodate additional water. In general, Regional San expects precipitation above 5 inches in a month to substantially impact Program deliveries. Historically this has occurred in approximately 16.5% of all wintertime months.⁴

Thus, the target value for annual Program deliveries for wintertime application would be reduced by 1,750 AFY for each wintertime month with precipitation greater than 5 inches.

Table 1. Summary of Water Quality Benefits Monitoring Components

Component Measured	Units	Frequency	Location
Delivery of Recycled Water to Program Area	AF	Daily monitoring, annual total reporting by month	Flow Meter at Harvest Water Pump Station (HWPS) discharge/ distribution intake
Salinity	mg/L, TDS mS/cm, EC	Monthly, averaged	HWPS or nearby location with equivalent water quality
Salts not Discharged to Delta	pounds/day, TDS	Annual Average	Based on flows and concentrations measured at HWPS

⁴ November – March, NOAA precipitation gage at Sacramento Executive Airport (Sacramento Airport ASOS, CA US station [GHCND:USW00023232]) using available data from 1941-2022.

1.2 ADAPTIVE MANAGEMENT PLAN APPROACH

This Adaptive Management Plan outlines a monitoring plan, including Program implementation milestones and Performance Thresholds (defined in Adaptive Management Plan Section 1.4) which demonstrate the Program's success in carrying out the Project Implementation Actions specified in the Contract for Administration of Public Water Quality Benefits. The Adaptive Management Plan identifies how monitoring will be used to adaptively manage the Program's Public Water Quality Benefit through a Meet and Confer Process and Adaptive Management Actions provided that any Adaptive Management Actions required to be taken by Regional San shall be reasonable and feasible. The intent of the Adaptive Management Plan is to increase the likelihood of achieving and maintaining the desired Public Water Quality Benefit, while recognizing that Project Implementation Actions are subject to various uncertainties beyond the scope of the Program's control and responsibility, which can include, but are not limited to, California hydrology, future regulatory conditions, changing water operations outside of the Program's influence, changes in land use, and climate change. Adaptive management of the Program will be implemented on a five-year review cycle. A five-year review cycle provides a regular opportunity to evaluate data from the previous years of Program implementation, maintenance, and monitoring, and allows for incorporation of new technologies and lessons learned into subsequent implementation, monitoring, maintenance, and performance tracking.

This Adaptive Management Plan is structured according to definitions and requirements outlined in the statute and the California Code of Regulations. California Water Code section 85052 defines adaptive management as "a framework and flexible decision-making process for ongoing knowledge acquisition, monitoring, and evaluation leading to continuous improvement in management planning and implementation of a project to achieve specified objectives."⁵

The California Code of Regulations, Title 23, Waters, Water Storage Investment Program (WSIP), section 6014, subdivision (a)(2)(A) states, "[t]he contract between an administering agency and applicant shall contain:

- (1) An adaptive management plan for the public benefits funded under the [WSIP] Program. The adaptive management plan shall contain:
 - a. Public benefit monitoring metrics;
 - b. Monitoring locations, frequencies, and timing;
 - c. Metric evaluation methodology and associated threshold or trigger levels based on best available science that initiate adaptive management actions;
 - d. Decision making process including the administering agency role and the adaptive management actions that would be taken when a trigger is reached;
 - e. Funding sources and financial commitments to implement the adaptive management plan;
 - f. Other items deemed necessary on a case-by-case basis by administering agencies entering into the contract."

⁵ Section 6001, subdivision (a)(1) of the WSIP Regulations provides that the definition of "adaptive management" for WSIP "has the same meaning as provided in Water Code section 85052."

1.3 ROLES AND RESPONSIBILITIES

Roles and responsibilities for each party are identical to those contained in Section 2 of the Contract for the Administration of Public Water Quality Benefits.

1.3.1 Adaptive Management Expectations

Regional San is obligated to deliver the Project Implementation Actions identified in this Contract and to implement this Adaptive Management Plan. Adaptive Management Actions must be reasonable and feasible and will not include providing an additional quantity of water beyond what is specified in this Contract. A description of the Project Implementation Actions is presented in Table 2.

Table 2. Harvest Water Project Implementation Milestones and Action

Phase	Project Implementation Milestone or Action	Performance Threshold and Adaptive Management Trigger Metrics
Phase 1 (Program Years 1 through 9)	Landowner contract execution for recycled water deliveries	Percentage of landowner contract execution
Phase 2 (Program Year 10 through the Term of the Contract)	Annual Recycled Water Delivery 1. Irrigation season water April – October 2. Wintertime water November – March (Does not include water deliveries that discharge as surface water to the Delta or its tributaries.)	Annual volume of delivered recycled water

Project Implementation Actions: Defined as foundational actions the Program must execute for realization of the Public Water Quality Benefit. Ramping of Project Implementation Actions are established with defined Program implementation milestones. However, once Performance Thresholds (defined in 1.4) metrics are achieved, they shall be maintained for the duration of the Contract. In the case of the Program’s Public Water Quality Benefit, the Project Implementation Actions directly result in the Public Water Quality Benefit. Consequently, the Adaptive Management Plan only addresses the Project Implementation Actions.

As part of the communication structure for implementation of this Adaptive Management Plan, the Parties will establish a Decision-Making Body formed by representatives of Regional San and the State Water Board to coordinate on adaptive management for the Public Water Quality Benefit. It is the responsibility of the Parties to each identify its own representative(s) for participation in the Decision-Making Body. Other partners, resources, and expertise may be involved as needed and at the discretion of the Decision-Making Body.

1.4 ADAPTIVE MANAGEMENT THRESHOLDS AND TRIGGERS

Section 6001, subdivision (a) of the WSIP Regulations (Cal. Code Regs., tit. 23, § 6000 et seq.) provides definitions for the terms “threshold” and “trigger” in the context of adaptive management. “Threshold” means a numerical value for a specific metric that is a boundary between acceptable and unacceptable situations or conditions, or a specific metric that must be exceeded for a certain reaction, result, or condition to occur. (Cal. Code Regs, tit. 23, § 6001, subd. (a)(80).) “Trigger” means an event, situation, or measurement that initiates or requires a management action. (Cal. Code Regs, tit. 23, § 6001, subd. (a)(84).) Each monitoring metric is associated with an adaptive management threshold and trigger. These are pre-determined decision points specific to each Project Implementation Action. Program status for the Public Water Quality Benefit’s Project Implementation Action will be assessed as described below:

Performance Thresholds are established as the full extent of Project Implementation Actions and the quantity of Public Water Quality Benefit anticipated to be achieved by implementation of with-project actions (Project Implementation Actions) compared to without-project actions (Future Baseline) or pre-project conditions (Pre-Project Baseline), based on Best Available Science at the time of Contract execution. Performance Threshold values indicate expected or better conditions above baseline conditions. The Project Implementation Action has Performance Thresholds associated with Contract commitments. Implementation milestones are also established for the Project Implementation Action, to serve as interim Performance Thresholds that the Program should achieve over a specified amount of time.

Adaptive Management Triggers are events, situations, or values determined to be below Performance Thresholds, assessed on a five-year review cycle. Adaptive Management Triggers are evaluated based on monitoring metrics associated with Project Implementation Actions and determined by the evaluation of monitoring metrics compared to the associated Performance Threshold. Adaptive Management Trigger indicates when a Public Water Quality Benefit is experiencing a potential challenge, is not on the expected trajectory to achieve the Performance Threshold, and the monitoring data is below the Performance Threshold.

Performance Thresholds and Adaptive Management Triggers are prescribed into two phases, where each phase has its own set of thresholds and associated triggers identified (see Adaptive Management Plan Section 2).

Phase 1 occurs during the Program’s initial ramp-up period, as Regional San initiates the Project Implementation Action. Phase 1 occurs Program Years 1 through 9 of Program operations. During Phase 1, implementation milestones are established for Project Implementation Actions as interim Performance Thresholds to show progress during the ramp-up period towards achieving the full contractual benefit quantity. Implementation milestones will have associated Adaptive Management Triggers.

Phase 2 occurs after the ramp-up period has ended and once the Program is able to deliver the full contractual benefit quantity. During Phase 2, adaptive management will occur around the Performance Thresholds and their associated trigger. Phase 2 begins Program Year 10 of Program operations until the end of the Contract Term.

Project Implementation Action Thresholds and Adaptive Management Triggers are further defined in Adaptive Management Plan Section SECTION 2 .

1.5 PROGRAM REPORTING

Pursuant to section 6014, subdivision (a)(2)(A)(3) of the WSIP regulations, Regional San will provide to the State Water Board an Annual Summary Report that includes:

- Summary of Project Implementation Actions
- Discussion of challenges and/or success in achieving Project Implementation Actions
- Summary of monitoring methods
- Monitoring data collected pursuant to Adaptive Management Plan Section 2.
- Description of how Order WW0092 Conditions 7 or 8 affected recycled water deliveries
- For wintertime months, monthly precipitation accumulation at the NOAA precipitation gage at Sacramento Executive Airport (Sacramento Airport ASOS, CA US station [GHCND:USW00023232]), or substitute precipitation gage if that gage is unavailable and use of the substitute gage is approved by the State Water Board WSIP Manager.
- Discussion of management activities
- Other relevant information

Regional San will provide to the State Water Board an Adaptive Management Review Report (Review Report) each five years, or annually for the five-year period after an Adaptive Management Trigger occurs (See Adaptive Management Plan Section 1.6 Decision-Making Process). For years in which Regional San must submit a Review Report, the Review Report shall be submitted on the Annual Summary Report due date and will replace the Annual Summary Report for that year. The Review Report shall include:

- Items listed above for the Annual Summary Report
- Description of data evaluation methodology
- Results of metric analyses
- Evaluation of all Performance Thresholds
- Discussion of any Adaptive Management Triggers that occurred, Limiting Factors that may have contributed to Adaptive Management Triggers occurring, and Adaptive Management Actions taken to meet Performance Thresholds
- Discussion of challenges and/or success in achieving Public Water Quality Benefit Performance Thresholds

Reports shall be provided to the State Water Board through electronic transmittal. Review and response by the State Water Board to Regional San shall be completed within 60 days of submission of the Annual Report, and within 90 days of submission of the Review Report.

1.6 DECISION-MAKING PROCESS

Program performance will be evaluated on its success in achieving Performance Thresholds for the Project Implementation Actions. The Performance Threshold of the Project Implementation Actions is considered as the annual average for the metric identified. If the measured value of the metric meets the criteria of the Adaptive Management Trigger, then decision-making processes and Adaptive Management Actions will be initiated as described below.

During Phase 1, Program performance will be evaluated on the Program's success in achieving implementation milestones. The purpose of implementation milestones is to show progress during the ramp-up period towards achieving Performance Thresholds.

1.6.1 Adaptive Management Trigger Decision-Making Processes

Regional San will report to the State Water Board as identified in Adaptive Management Plan Section 1.5. Should an Adaptive Management Trigger occur, Regional San will identify limiting factors and implement appropriate Adaptive Management Actions from the actions delineated in Adaptive Management Plan Section 2.5 or other actions mutually agreed to in writing and in accordance with Contract Section 8.6. Regional San may also identify reasons why Adaptive Management Actions are not reasonable or feasible or may not result in the achievement of Performance Thresholds (e.g., extended drought conditions or infrastructure repairs) and will propose a plan in the Annual Report to meet Performance Thresholds in the next Review Report period.

If, after review of the Annual Summary Report or Review Report, along with any other relevant monitoring data, the State Water Board concludes that Project Implementation Actions are occurring and Project Implementation Action metrics are below the associated Adaptive Management Triggers, or the State Water Board concludes it was not feasible to meet Performance Thresholds in the reporting period in question, the State Water Board will confirm this status with Regional San in writing, and Regional San will continue to implement its monitoring plan.

If, after review of the Annual Summary Report or Review Report, along with any other relevant monitoring data, the State Water Board concludes that Project Implementation Action metrics are below the associated Adaptive Management Trigger and, if relevant, current Adaptive Management Actions being taken will not be sufficient to achieve Performance Thresholds, the State Water Board will initiate the Meet and Confer process. Through the Meet and Confer Process, the Decision-Making Body will identify the limiting factor(s) to achieving conditions at or above the Adaptive Management Triggers.

Should Regional San not meet and confer, the State Water Board will independently investigate the limiting factor(s).

Through the Meet and Confer Process or the State Water Board's independent investigation:

1. If the Decision-Making Body determines that an Adaptive Management Trigger has occurred and that Adaptive Management Actions are warranted, the Decision-Making Body will identify limiting factors and recommend reasonable and feasible Adaptive Management Actions from the possible Adaptive Management Actions identified in Adaptive Management Plan Section 2.5 and will also recommend a timeline for the Program to implement any modifications identified.
 - a. If the Program successfully implements the recommended Adaptive Management Actions, then the monitoring plan will continue with annual evaluation of metrics compared to Performance Thresholds and Adaptive Management Triggers.
 - i. After a subsequent five-year review cycle of the annual metric assessment showing achievement of Performance Thresholds, the Program can resume monitoring with a five-year adaptive management review.

- ii. Should the Adaptive Management Trigger again occur at the subsequent five-year review, the Decision-Making Body will Meet and Confer and determine if an adjustment to the Adaptive Management Plan is appropriate. Accordingly, the State Water Board will, in coordination with Regional San, process an amendment and inform the CWC of any benefit changes. See Contract Section 8.6.
- b. If the Decision-Making Body cannot agree on limiting factors or recommended actions to achieve Performance Thresholds at or above Adaptive Management Triggers, the State Water Board may initiate the Public Benefit Dispute Process. See Contract Section 5.
- c. If the Program does not implement the recommended Adaptive Management Actions according to the recommended timeline or fails to achieve Performance Threshold levels at or above Adaptive Management Triggers because of a failure to implement Project Implementation Actions, the State Water Board may initiate the Public Benefit Dispute Process. See Contract Section 5.

1.6.2 Force Majeure: Events Not Covered by Adaptive Management Trigger Decision-Making Processes

The foregoing Adaptive Management Trigger Decision-Making Process addresses foreseeable events and changing circumstances that interfere with the Program's implementation of Project Implementation Actions. In the event that a catastrophic disruption occurs that renders one or more Project Implementation Actions impossible (e.g., due to destruction of essential infrastructure, or catastrophic loss of habitat that would extend beyond two five-year reporting cycles), the Program will notify the State Water Board in writing of the impossibility and propose a timeline to resume Project Implementation Actions. Alternatively, the Program may inform the State Water Board that the delivery of the Public Water Quality Benefit is no longer possible. After the Program has stabilized any health or human safety-related impacts of the unforeseen circumstance, the Decision-Making Body will meet and confer and decide one of the following:

1. The Decision-Making Body may mutually agree that the Public Water Quality Benefit continues to be possible. The Decision-Making Body will determine whether an adjustment to the Adaptive Management Plan is needed; an adjustment to the Performance Threshold is needed; or an alternative Public Water Quality Benefit can be achieved. Accordingly, the Department will process an amendment and inform the CWC of any benefit changes. See Contract Section 8.6, Funding Agreement paragraph 17.
 - a. Should the Decision-Making Body not agree on whether an adjustment to the Adaptive Management Plan or an adjustment to the Performance Threshold is needed, the State Water Board may initiate the Public Benefit Dispute Process. See Contract Section 5.
2. The Decision-Making Body may mutually agree that the Public Water Quality Benefit is no longer possible due to the catastrophic disruption addressed by this section, and may mutually agree to terminate the Project Implementation Actions. Accordingly, the State Water Board will process an amendment and inform the CWC of the changes. See Contract Section 8.6. If the Decision-Making Body mutually agrees to terminate the requirements specific to a Public Water Quality Benefit, the Parties shall also notify the Commission pursuant to Funding Agreement paragraph 17.
 - a. Should the Decision-Making Body not agree on whether the Public Water Quality Benefit continues to be possible, the State Water Board may initiate the Public Benefit Dispute Process. See Contract Section 5.

After completing the process set forth above in this paragraph 1.6.2, if the Parties continue to have a dispute and a party brings an action, neither this paragraph 1.6.2 nor anything else in this Adaptive Management Plan or Contract constitutes a contrary agreement under Cal. Civil Code section 1511(2) that could eliminate or change a statutory defense to performance under Civil Code section 1511(2).

1.7 FUNDING ADAPTIVE MANAGEMENT PLAN IMPLEMENTATION

Pursuant California Code of Regulations, title 23, section 6014, subdivision (a)(2)(A)(1), this Adaptive Management Plan contains Public Water Quality Benefit (as represented by the Project Implementation Actions) monitoring metrics; monitoring locations, frequencies, and timing; metric evaluation methodology and associated thresholds and trigger levels, based on Best Available Science, that initiate Adaptive Management Actions, decision-making processes, funding sources and financial commitments to implement this Adaptive Management Plan; and any other items deemed necessary pursuant to the contract for the administration of public benefits. Regional San may elect to participate in collaborative partnerships regarding the implementation of monitoring or Adaptive Management Actions to achieve the Public Water Quality Benefits as represented by the Project Implementation Actions. However, should any monitoring undertaken through collaborative partnerships cease, it is Regional San's sole responsibility to either implement necessary monitoring or identify and implement other monitoring partnerships for this Adaptive Management Plan. Regional San will fund the actions described in the Adaptive Management Plan via rates or other revenue sources.

SECTION 2 ADAPTIVE MANAGEMENT OF PROJECT IMPLEMENTATION ACTIONS

2.1 PROJECT IMPLEMENTATION ACTION

Delivery of recycled water that would otherwise be discharged to the Sacramento River will result in reduced total dissolved solids (TDS) loading to the Sacramento River and Delta waterways. The reduction in mass loading of salts to the Sacramento River will lower the electrical conductivity in the lower Sacramento River and downstream waterways of the Sacramento-San Joaquin Delta, including the southern portion, western portion, and export area of the Delta Waterways, which are impaired for electrical conductivity.

2.2 MONITORING METRICS AND PERFORMANCE THRESHOLDS

2.2.1 Metric 1: Percentage of contract execution for recycled water delivery (irrigation season and wintertime).

Implementation milestones: During Program construction and prior to start of operations, 100% of water delivery contracts for 41,250 acre-feet per year will be executed within five years of receiving the WSIP final funding award. During Phase 1, by:

- Year 1, landowner contract execution representing 20 percent of annual recycled water delivery will be achieved.
- Year 3, landowner contract execution representing 60 percent of annual recycled water delivery will be achieved.
- Year 5, landowner contract execution representing 100 percent of delivery of recycled water annually will be achieved.

Performance Threshold (i.e., contractual quantity): 100% of water delivery contracts needed to deliver 41,250 acre-feet annually, will be met by Year 5.

2.2.2 Metric 2: Volume of annual recycled water delivered.

Performance Threshold: Following the ramp-up period for this metric, Regional San will deliver an average of 41,250 acre-feet per year of recycled water to the Program area for agricultural operations including irrigation and crane habitat. Performance is based on a five-year average starting Year 10 after the first full year of Program operations, except in years when Condition 7 applies as specified in Order WW0092. In Dry and Critically Dry Water Years and Shasta Critical Years when Condition 7 of Order WW0092 is in effect, Regional San will deliver:

- An average of 33,125 AFY in Dry and Critically Dry Water Years (not including Shasta Critical Years)
- An average of 25,000 AFY in Shasta Critical Years

The Performance Threshold for a given calendar year shall be reduced by 1,750 AF for each wintertime month during which more than 5 inches of precipitation are logged at the NOAA precipitation gage at Sacramento Executive Airport (Sacramento Airport ASOS, CA US station [GHCND:USW00023232]).

Other conditions may limit recycled water deliveries to varying degrees but any resulting triggers that occur due to delivery limitations would be subject to the Meet and Confer Process described in Adaptive Management Plan Section 1.6 above.

2.3 MONITORING METHODOLOGY

2.3.1 Metric 1: Percentage of landowner contract execution for recycled water delivery (irrigation season and wintertime)

Regional San will report the number of recycled water delivery contracts executed and the total estimated annual recycled water delivery volume represented by all executed contracts.

2.3.2 Metric 2: Volume of annual recycled water delivered

The amount of recycled water delivered will be metered to ensure that Program water delivery is occurring as expected.

Monitoring of Program recycled water deliveries shall include accounting of water delivered for all Program customers. Any deliveries that discharge directly to the Delta or its tributaries, such as deliveries to Stone Lakes for use on wetlands that discharge to surface waters, shall be subtracted from this number.

Location: At the Harvest Water Pump Station and each customer's meter.

Timing and frequency: Annual reporting of monthly and annual total deliveries.

2.3.3 Additional monitoring for informational purposes

While adaptive management triggers will be linked to Implementation milestones and Project Implementation Action Performance Thresholds, Regional San will also monitor and report on the following metrics:

2.3.3.1 Salinity of recycled water

Regional San will monitor and report the concentration of total dissolved solids (in mg/L) in the recycled water delivered to customers as well as the electrical conductivity (in milliSiemens per centimeter) of the water.

Location: At the Harvest Water pump station or at a nearby location with equivalent water quality.

Timing and Frequency: Annual reporting of monthly average

2.3.3.2 Salts not discharged to the Delta

Regional San will calculate the annual average pounds per day of salts not discharged to the Delta as a result of the Program.

Location: Based on volume of deliveries and concentrations measured at the Harvest Water pump station or at a nearby location with equivalent water quality. Any deliveries that discharge directly to the Delta or its tributaries, such as deliveries to Stone Lakes for use on wetlands that discharge to surface water, shall be subtracted from this number.

Timing and Frequency: Annual average

2.4 ADAPTIVE MANAGEMENT TRIGGERS

Trigger for Implementation milestones: For monitoring Metric 1, Adaptive Management is triggered when the percentage of executed contracts for water delivery is below the milestone at the associated year.

Trigger for Performance Thresholds: For monitoring Metric 2, adaptive management is triggered when the five-year average annual volume of water delivered⁶ is below an average of the applicable Adaptive Management Thresholds for those five years. For example, assume the following five-year scenario while Order WW0092 Condition 7 is in effect:

- one Shasta Critical year with no adjustments for wet wintertime months (Performance Threshold = 25,000 AFY)
- three years in which Order WW0092 Condition 7 did not apply and no adjustments were made for wet wintertime months (Performance Threshold = 41,250 AFY)
- one year in which Order WW0092 Condition 7 did not apply and two wintertime months each registered more than 5 inches of precipitation (Performance Threshold = 41,250 AFY – 2 × 1,750 AFY = 37,750 AFY)

In this scenario, adaptive management would be triggered if average annual water deliveries over those five years were below 37,300 AFY (i.e., $(41,250 \text{ AF} \times 3 \text{ years} + 25,000 \text{ AF} \times 1 \text{ year} + 37,750 \text{ AF} \times 1 \text{ year}) / 5 \text{ years}$).

⁶ The volume of water delivered, for the purposes of this contract, shall not include water deliveries that discharge directly to the Delta or its tributaries, such as deliveries to Stone Lakes for use on wetlands which discharge to surface waters.

2.5 ADAPTIVE MANAGEMENT ACTIONS

If an Adaptive Management Trigger occurs, decision-making shall follow the process described in Section 1.6 of the Adaptive Management Plan. All the potential Adaptive Management Actions that Regional San could take regarding recycled water deliveries in the Program area are aimed at ensuring the Program deliveries for irrigation water and wintertime water. These actions may include the following actions, or other actions if mutually agreed to in writing and in accordance with Contract Section 8.6:

1. Increase recycled water delivery contracts to increase anticipated volume of water to be delivered (subject to overall water availability).
2. Implement reasonable and feasible incentives, such as price adjustments or other financial incentives, for landowner participation. Participation in this context means enrolling in the program or purchasing water.
3. Secure longer-term agreements for landowner participation in the Program.

SECTION 3 REFERENCES

State of California, State Water Resources Control Board. *In the Matter of Wastewater Petition WW0092, Sacramento Regional County Sanitation District, Order Approving Change in Purpose of Use and Place of Use of Treated Wastewater*. 2019

State of California, State Water Resources Control Board. *2018 Integrated Report*. 2020