

**AGENDA  
SPECIAL MEETING OF THE  
BOARD OF DIRECTORS OF THE  
OAKDALE IRRIGATION DISTRICT  
MONDAY, SEPTEMBER 26, 2016**

Agendas and Minutes are on our website at [www.oakdaleirrigation.com](http://www.oakdaleirrigation.com)

**CALL TO ORDER**                    9:00 a.m., the Boardroom of the District Office  
1205 East F Street, Oakdale, California 95361

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**                         Directors Webb, Doornenbal, Osmundson, Altieri, Santos

**ADDITIONS OR DELETION OF AGENDA ITEMS**

**ACTION TO TAKE VARIOUS ITEMS OUT OF SEQUENCE**

**PUBLIC COMMENTS – ITEM 1**

1. The Board of Directors welcomes participation in meetings. This time is provided for the public to address the Directors of the District on matters of concern that fall within the jurisdiction of the Board that are not on the agenda.

Speakers are encouraged to consult District Management or Directors prior to agenda preparation regarding any District operation or responsibility as no action will be taken on non-agenda issues. It is not required, but speakers may provide their name and address.

Because these are non-agenda matters, generally no discussion or comment by the Board should be expected except to properly refer the matter for review or action as appropriate.

Public Comments will be limited to five minutes per speaker.

**ACTION CALENDAR – ITEMS 2-3**

2. Review and take possible action to **Approve Resolution Finding Fall Pulse Flow Release Project Categorically Exempt Under the California Environmental Quality Act (CEQA)**
3. Review and take possible action to **Approve Agreement to Purchase Release of Water By and Among Oakdale Irrigation District, South San**

**Joaquin Irrigation District, San Luis Delta Mendota Water Authority and the California Department of Water Resources and Authorize the General Manager to Execute**

**OTHER ACTION – ITEM 4**

4. Adjournment:

- A. The next Regular Board Meeting of the **Oakdale Irrigation District Board of Directors** is scheduled for **Tuesday, October 4, 2016 at 9:00 a.m.** in the **City of Oakdale Council Chambers, 277 N. Second Avenue, Oakdale, CA.**
  
- B. The next Joint Board Meeting of the **South San Joaquin and Oakdale Irrigation Districts** serving the **Tri-Dam Projects** and **Tri-Dam Authority** and other joint business matters is scheduled for **October 20, 2016 at 9:00 a.m.** in the board room of the South San Joaquin Irrigation District, 11011 East Highway 120, Manteca, CA.

*Writings distributed to Board Members in connection with the open session items on this agenda are available for public inspection in the office of the Board Secretary. Any person who has a question concerning any of the agenda items may call the Administrative Assistant at (209) 840-5507.*

*ADA Compliance Statement: In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact the Administrative Assistant at (209) 840-5507. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting.*



# **PUBLIC COMMENTS**

**No Information Included**

## **SPECIAL BOARD MEETING OF SEPTEMBER 26, 2016**



# **AGENDA ITEMS ACTION CALENDAR**

## **SPECIAL BOARD MEETING OF SEPTEMBER 26, 2016**

# BOARD AGENDA REPORT

Date: September 26, 2016  
Item Number: 2  
APN: N/A

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**SUBJECT: REVIEW AND TAKE POSSIBLE ACTION TO APPROVE RESOLUTION FINDING THE 2016 FALL PULSE FLOW RELEASE CATEGORICALLY EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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**RECOMMENDED ACTION:** Board Approval

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**BACKGROUND AND/OR HISTORY:**

The 2016 Fall Pulse Flow Release (Project) proposes for 16,000 acre-feet (AF) of water to be released at Goodwin Dam by OID and SSJID under their water rights. The water would be released by the U.S. Bureau of Reclamation (USBR) during October and November to meet their flow objective on the San Joaquin River at Vernalis for migrating fish. As the released water also has the potential to benefit the Department of Water Resources (DWR) and the San Luis & Delta Mendota Water Authority (SLDMWA), those entities have offered to purchase the release water from OID and SSJID for each acre-foot released at Goodwin Dam. Due to the location of Goodwin Dam, OID and SSJID, the Project is located in Stanislaus, San Joaquin, Calaveras, and Tuolumne Counties.

This Project is categorically exempt from CEQA pursuant to Section 15301 Class 1 (i) Maintenance of Stream Flow to protect fish and wildlife resources. This Project will utilize existing public facilities for the maintenance of flows to protect fish and wildlife resources. There will be no change in operation or expansion of existing diversion and pumping facilities.

Staff recommends approving the resolution as attached finding the above Project Categorically Exempt from CEQA. It should be noted that approval of the attached resolution does not approve the project itself. Once a determination of the CEQA findings has been made, any project agreements will be brought to the Board for consideration as a separate agenda item. Staff will be available to answer any questions that the Board may have.

**FISCAL IMPACT:** \$157 in County Clerk filing fees (\$57 Stanislaus County; \$50 San Joaquin County; \$50 Calaveras County; \$0 Tuolumne County)

**ATTACHMENTS:**

- Resolution
  - Notice of Exemption
- 

**Board Motion:**

**Motion by:** \_\_\_\_\_ **Second by:** \_\_\_\_\_

**VOTE:**

**Webb (Yes/No) Doornenbal (Yes/No) Osmundson (Yes/No) Altieri (Yes/No) Santos (Yes/No)**

**Action(s) to be taken:**

**OAKDALE IRRIGATION DISTRICT  
RESOLUTION NO. 2016- NIL**

**APPROVING A CALIFORNIA ENVIRONMENTAL QUALITY ACT  
NOTICE OF EXEMPTION FOR THE  
SOUTH SAN JOAQUIN AND OAKDALE IRRIGATION DISTRICTS'  
2016 FALL PULSE FLOW RELEASE PROJECT**

**WHEREAS**, the Oakdale Irrigation District (“OID”) and the South San Joaquin Irrigation District (“SSJID”), collectively referred to as “Districts”, are California irrigation districts operating under and by virtue of Division 11 of the California Water Code; and

**WHEREAS**, Districts are co-owners of certain water rights on the Stanislaus River, including pre-1914 appropriative rights to divert water from the Stanislaus River for irrigation of the lands within the Districts, and various post-1914 appropriative rights to store Stanislaus River water in various reservoirs for diversion to irrigate lands within the Districts, as well as to generate electrical power; and

**WHEREAS**, the San Luis & Delta Mendota Water Authority (SLDMWA) is a California joint power authority operating under and by virtue of Section 6500, et seq., of the California Government Code; and

**WHEREAS**, SLDMWA’s member units are 28 water agencies representing approximately 2,100,000 acres of land within the western San Joaquin Valley, San Benito and Santa Clara Counties that receive water from the federal Central Valley Project (“CVP”) under water service or exchange contracts; and

**WHEREAS**, the California Department of Water Resources (“DWR”) owns, operates and maintains water collection, storage, conveyance and delivery facilities, including but not limited to the State Water Project (“SWP”), and delivers water to its water service contractors located throughout California; and

**WHEREAS**, the past three years of below normal hydrology have resulted in dry conditions in the San Joaquin River Basin; and

**WHEREAS**, in accordance with the applicable requirements of State Water Resources Control Board (“SWRCB”) Order D-1641, USBR makes releases from New Melones Reservoir to meet water quality and water quantity objectives measured at Vernalis; and

**WHEREAS**, D-1641 Schedule 3 Footnote 15 looks to have 28,000 acre-feet of additional flow during October; and

**WHEREAS**, Districts’ water rights are satisfied by and through the performance of a settlement agreement with the USBR (the “1988 Agreement”) which requires the USBR to deliver water to the Districts at Goodwin Dam each year; and

**WHEREAS**, the full entitlement of water available to Districts under the 1988 Agreement (formula water) of 600,000 acre feet was indeed fully allocated to the Districts in 2016; and

**WHEREAS**, based upon the USBR’s final 2016 forecast, Districts are willing to release up to 16,000 acre feet of its available and unused water allocation at Goodwin Dam between October 1 and November 30, 2016 (“proposed Project”) without reservoir refill criteria to

meet the project needs. Districts will release approximately 1,000 cfs per day, with variations, up or down, depending on the status of flow at Vernalis; and

**WHEREAS**, on the behalf of the Districts, USBR will release such water from Goodwin Dam, over, above and in excess of the quantities released by the USBR necessary to satisfy the USBR's obligations under Appendix 2-E and RPA IV.2.1 of the National Marine Fisheries Service's Biological Opinion (BO); and

**WHEREAS**, such operations in the Delta will be conducted consistent with D-1641 and applicable Biological Opinions; and

**WHEREAS**, the Districts' release of supplemental flow in October and November will improve instream flow conditions for migratory fish in the Stanislaus and San Joaquin River and will have an incidental effect of improving water quality and water supply conditions in the Delta that can benefit CVP and SWP operations; and

**WHEREAS**, the Parties hereto expect and anticipate, but cannot guarantee, the amount of water released as a result of the proposed Project will subsequently arrive at Vernalis; and

**WHEREAS**, DWR and the SLDMWA are willing to fund the supplemental releases and to share the anticipated incidental water supply benefits to their respective water contractors; and

**WHEREAS**, the SLDMWA and DWR will pay OID and SSJID for every acre foot of water released into the Stanislaus River; and

**WHEREAS**, the proposed Project would utilize existing water conveyance infrastructure and no construction would take place; and

**WHEREAS**, after its independent review, the proposed Project has been determined by the Board of Directors to be categorically exempt from the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations, Section 15301 Class 1(i) Maintenance of Stream Flow to protect fish and wildlife resources; and

**WHEREAS**, Goodwin Dam is located in Tuolumne and Calaveras Counties; OID is located in Stanislaus and San Joaquin Counties; and SSJID is located in San Joaquin County; and

**WHEREAS**, OID is the custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based, and the District office is the location of this record; and

**NOW THEREFORE, BE IT RESOLVED**, by this Board of Directors that:

1. The foregoing recitals are true and correct.
2. The proposed Project has been determined to be categorically exempt from CEQA under 14 Cal. Code of Regulations, Section 15301 Class 1(i) Maintenance of Stream Flow to protect fish and wildlife resources.
3. A Notice of Exemption is approved (and is on file with the District's records).
4. The District's Staff is authorized and directed to file a Notice of Exemption at the



Clerk's Office (or other authorized place) of Stanislaus, San Joaquin, Calaveras and Tuolumne Counties and in the manner prescribed by the CEQA.

Upon motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, and duly submitted to the Board for its consideration the above titled resolution was adopted this 26<sup>th</sup> day of September, 2016.

**OAKDALE IRRIGATION DISTRICT**

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Steve Webb  
President

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Steve Knell, P.E.,  
General Manager/Secretary



**From:**

Oakdale Irrigation District  
1205 East F Street  
Oakdale, CA 95361

Lead Agency Contact Person:  
Steve Knell, P.E., General Manager  
Oakdale Irrigation District  
Telephone (209) 847-0341  
Email: sknell@oakdaleirrigation.com

**To:**

SPACE ABOVE RESERVED FOR CLERK'S/OPR USE

County Clerk  
County of Stanislaus  
1021 "I" Street, Suite 101  
Modesto, CA 95354-0847

County Clerk  
County of Calaveras  
891 Mountain Ranch Road  
San Andreas, CA 95249

County Clerk  
County of San Joaquin  
44 N. San Joaquin Street, Suite 260  
Stockton, CA 95202

County Clerk  
County of Tuolumne  
#2 South Green Street  
Sonora, CA 95370

California Environmental Quality Act (CEQA)

NOTICE OF EXEMPTION

**Title:** 2016 Fall Pulse Flow Release

**Project Location:** From the Stanislaus River at Goodwin Dam to the San Joaquin River at Vernalis; located in Stanislaus, San Joaquin, Calaveras and Tuolumne Counties.

**Project Description:**

Oakdale Irrigation District ("OID") and South San Joaquin Irrigation District ("SSJID") will release up to 16,000 acre feet of water from Goodwin Dam into the Stanislaus River to augment water releases made by the United States Bureau of Reclamation ("USBR") to benefit migratory fish on the Stanislaus and San Joaquin Rivers. The releases will occur during October and November, and will be coordinated with the USBR's releases to meet its legal obligations identified in the Stanislaus River Minimum Fish Flow Schedule for critically dry year types per Appendix 2-E of the June 2009 National Marine Fishery Service (NMFS) Biological Opinion on the long-term operations of the Central Valley Project and State Water Project. It is expected the Districts will release up to approximately 1,000 cubic feet per second ("cfs") per day, with variations, up or down, depending on the status of flow at Vernalis. The San Luis & Delta

Mendota Water Authority ("SLDMWA") and the Department of Water Resources ("DWR") will pay OID and SSJID for every acre foot released at Goodwin Dam. There will be no reservoir refill criteria.

**Project Purpose:**

The releases are for the purpose of improving flow on the Stanislaus and San Joaquin Rivers to benefit migratory fish. Pursuant to the State Water Resources Control Board's ("SWRCB") Decision 1641 ("D-1641"), the USBR is responsible for meeting certain flows at Vernalis for both water quality and water quantity. The National Marine Fisheries Service's ("NMFS") 2009 Biological Opinion ("BiOp") establishes the October "pulse flow" identified in the Stanislaus River Minimum Fish Flow Schedule for critically dry year types per Appendix 2-E for the purpose of protecting migratory fish in the lower San Joaquin River and Delta, particularly fall-run Chinook salmon and Central Valley steelhead. (BiOp, p. 641-645). Beginning in 2012, Phase II of the BiOp RPA IV.2.1 requires DWR and USBR to meet a "Vernalis flow: CVP/SWP combined export" ratio of 1:1 in critically dry years, however this ratio is subject to the exception procedure for Health and Safety where the agencies have estimated that a combined CVP/SWP export rate of 1,500 cfs is needed to meet health and safety needs. (BiOp, p. 643-644). The releases provided by OID and SSJID will supplement flows in the Stanislaus and San Joaquin Rivers to improve instream flow conditions for migratory fish during October and November 2016, and will have an incidental effect of improving water quality and water supply conditions in the Delta that can benefit DWR and SLDMWA operations. Such operations in the Delta will be conducted consistent with D-1641 and applicable Biological Opinions.

**Project Proponents:** Oakdale Irrigation District and South San Joaquin Irrigation District.

**Project Beneficiaries:** State of California, OID, SSJID, USBR, DWR, SLDMWA.

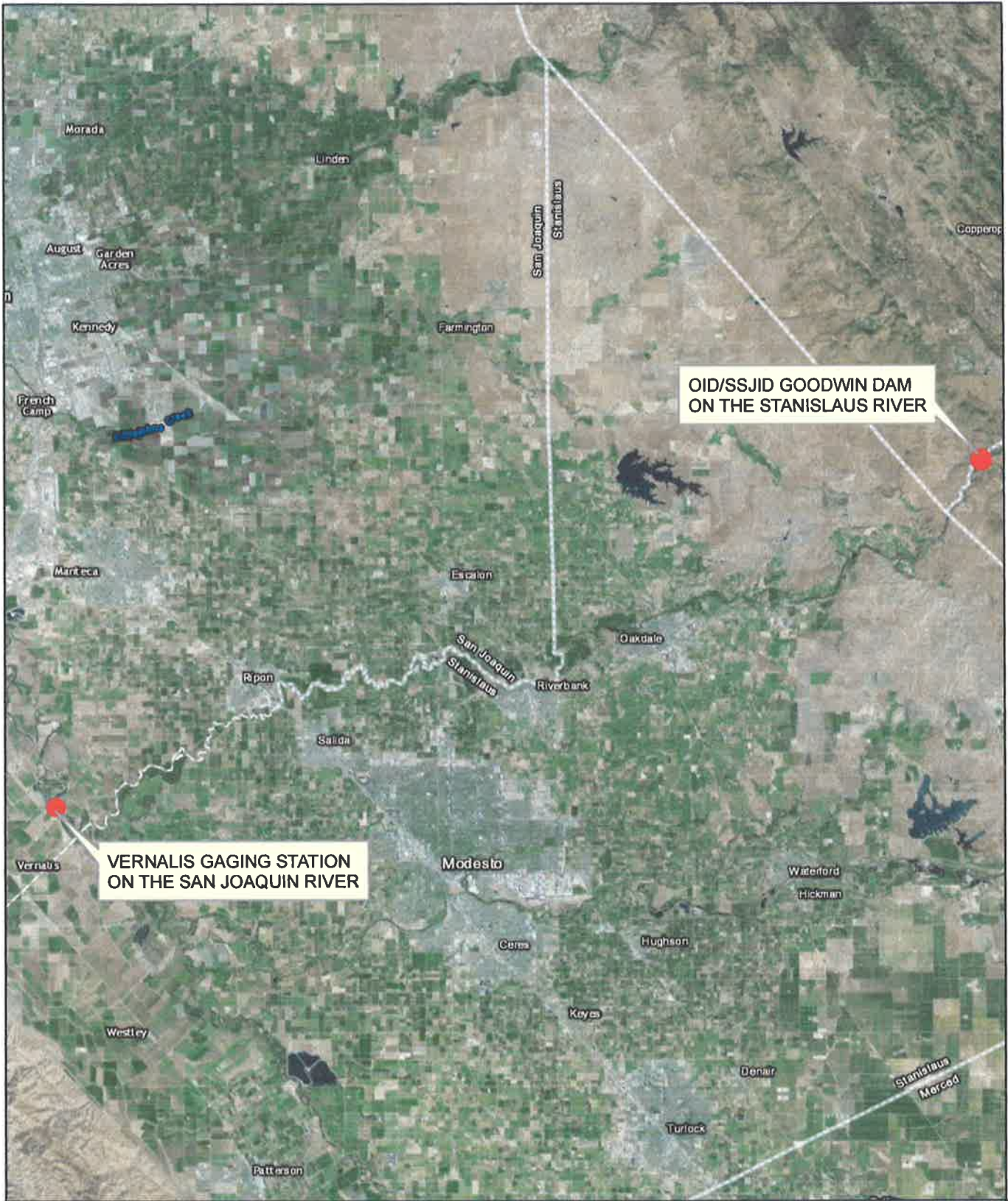
**Name of Public Agency Approving Project:** Oakdale Irrigation District and South San Joaquin Irrigation District.

**Exempt Status:**  Categorical Exemption (14 Cal. Code of Regulations, Sec. 15301 Class 1(i) Maintenance of Stream Flow to protect fish and wildlife resources).

**Reasons Why Project is Exempt:** The project utilizes existing public facilities for the maintenance of flows to protect fish and wildlife resources. There will be no change in operation or expansion of existing diversion and pumping facilities.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Steve Knell, P.E., General Manager  
OAKDALE IRRIGATION DISTRICT



OID/SSJID GOODWIN DAM  
ON THE STANISLAUS RIVER

VERNALIS GAGING STATION  
ON THE SAN JOAQUIN RIVER

DRAWN BY: ECS  
 CHECKED BY: SRK  
 DATE: 9/19/16  
 SHEET: 1 OF 1

**PROJECT SITE MAP  
 OAKDALE IRRIGATION DISTRICT  
 2016 FALL PULSE FLOW RELEASE**



# BOARD AGENDA REPORT

Date: September 26, 2016  
Item Number: 3  
APN: N/A

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**SUBJECT: REVIEW AND TAKE POSSIBLE ACTION TO APPROVE AGREEMENT TO PURCHASE RELEASE OF WATER BY AND AMONG THE OAKDALE IRRIGATION DISTRICT, THE SOUTH SAN JOAQUIN IRRIGATION DISTRICT, THE SAN LUIS & DELTA MENDOTA WATER AUTHORITY, AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND AUTHORIZE GENERAL MANAGER TO EXECUTE**

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**RECOMMENDED ACTION:** Approve Agreement to Release Water and to Authorize the GM to Execute Said Agreement with the Provision that if any Substantive Change to Price or Quantity Occurs that the Agreement be Brought Back to the Board

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## **BACKGROUND AND/OR HISTORY:**

Under the SWRCB's granting of a Temporary Change Petition to the Bureau of Reclamation for the 2016 Water Year, a requirement of that TUCP was for the BOR to achieve a minimum EOMS volume of 415,000 acre feet in New Melones.

Current storage in New Melones as of midnight September 22, 2016 was 530,847 acre feet. But for the efforts of SSJID and OID Irrigation Districts and the farmers' efforts within the districts, both conserving and judicially managing their water over the last year, this target would not have been met.

As a result of those efforts however, about 120,000-130,000 acre feet of district water, making up a good portion of the 530,847 acre feet currently in storage today, will revert to Bureau of Reclamation Control on September 30<sup>th</sup>. That reversion of water to the Bureau's control will be done without any benefit to the two districts except for the following opportunity.

In recognition of the District's efforts this year, and over the past 4 years of drought, the Bureau is offering the opportunity to recapture some of the value of their water by engaging in a late season water release and sale agreement similar to what occurred last year in the fall of 2015.

The Bureau is required to meet a 28,000 acre foot fall pulse flow release on the San Joaquin River as measured at Vernalis during October and November for the benefit of fisheries. The Bureau is offering, and the DWR and SLDMWA are willing to buy this water if a collective end-of-season contract can be executed amongst willing sellers and buyers before the end of September. If executed before the end of September the Bureau can "color" the water as "contracted water" behind New Melones and release it as such in October and November in lieu of the fish flow water. The DWR and SLDMWA can then pick this "contract" water up at the pumps.

If the transaction does not take place before the end of the month all the water behind New Melones and under Bureau control will be tagged for fish and water quality purposes only.



This is the same opportunity the Bureau offered in the fall of 2015 and for the same reasons. One nuance over last year is that Merced ID is able to meet 12,000 acre feet of this arrangement. They too have worked diligently with the Bureau in meeting Vernalis flows this year.

The decision for SSJID and OID, and the reason for this agenda, is whether the two districts wish to share equally in the 16,000 acre foot release? The price of the water being sold is \$250 per acre foot, making the total transaction benefit about \$2 million to each district.

To clear up some of the misinformation regarding the SLDMWA. Of the 28 agencies they represent and contract water for, 5 of those agencies are in Stanislaus County. The lands represent 109,407 acres of the County's 341,187 acres of agricultural land within irrigation district service boundaries. That's 32%! These transactions carry significant benefit for Stanislaus County, which to date has had little to no exposure of that benefit.

Staff recommends that this contract be approved for execution by the GM with the caveat that any substantive changes in price or quantity be brought back to the Board.

**FISCAL IMPACT:** Potential income of \$2 million

**ATTACHMENTS:**

- Agreement

**REMINDER:**

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**Board Motion:**

**Motion by:** \_\_\_\_\_ **Second by:** \_\_\_\_\_

**VOTE:**

**Webb (Yes/No) Doornenbal (Yes/No) Osmundson (Yes/No) Altieri (Yes/No) Santos (Yes/No)**

**Action(s) to be taken:**

**AGREEMENT TO PURCHASE RELEASE OF WATER BY AND AMONG THE  
OAKDALE IRRIGATION DISTRICT, THE SOUTH SAN JOAQUIN IRRIGATION  
DISTRICT, THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY, AND  
THE CALIFORNIA DEPARTMENT OF WATER RESOURCES**  
SWPAO #16-XXX

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and among the Oakdale Irrigation District (OID), the South San Joaquin Irrigation District (SSJID), (collectively the Districts), the San Luis & Delta-Mendota Water Authority (SLDMWA), and the Department of Water Resources (DWR) of the State of California.

**RECITALS**

WHEREAS, Districts are California irrigation districts operating under and by virtue of Division 11 of the California Water Code; and

WHEREAS, DWR owns, operates and maintains water collection, storage, conveyance and delivery facilities, including but not limited to the State Water Project (SWP), and delivers water to 29 water service contractors located throughout California; and

WHEREAS, the SLDMWA is a California joint power authority operating under and by virtue of Section 6500, et seq., of the California Government Code; and

WHEREAS, the SLDMWA is comprised of 28 member agencies representing approximately 2,100,000 acres of land within the western San Joaquin Valley, San Benito and Santa Clara Counties; and

WHEREAS, 26 of the SLDMWA's 28 member agencies receive water from the federal Central Valley Project ("CVP") under water service or exchange contracts; and

WHEREAS, Districts are co-owners of certain water rights on the Stanislaus River, including pre-1914 appropriative rights to divert water from the Stanislaus River, and various post-1914 appropriative rights to store Stanislaus River in various reservoirs; and

WHEREAS, the past three years of below normal hydrology have resulted in dry conditions in the San Joaquin River Basin; and

WHEREAS, D-1641 Schedule 3 Footnote 15 looks to have 28,000 acre-feet of additional flow during October.

NOW, THEREFORE, the Districts, SLDMWA, and DWR, on the terms and conditions herein set forth, agree as follows:

## AGREEMENT

1. **DEFINITIONS:** The following definitions shall govern this Agreement:
  - (a) “Parties” means the Districts, SLDMWA, and DWR.
  - (b) “Delivery” means Districts’ water made available to U.S. Bureau of Reclamation (USBR) at New Melones Reservoir in September 2016 to be released at Goodwin Dam on the schedule developed pursuant to Paragraph 12 of this Agreement. This definition is intended to include the grammatical variations of the term “delivery” including “deliver” and “delivered,” where such term references water.
  
2. **TERM:** This Agreement shall become effective upon execution by all parties, and shall terminate on December 31, 2016 or upon final payment by SLDMWA and DWR of all costs attributable to this Agreement, whichever occurs later.
  
3. **WATER AVAILABLE FOR PURCHASE:** Pursuant to this Agreement:
  - (a) The Districts will make the Water available to USBR in September 2016 in an amount up to 16,000 acre-feet , and
  - (b) The water for which there has been a Delivery will be released by USBR in accordance with the requirements set forth in Paragraph 12. Benefits of water released will be made available to USBR and DWR and will be shared equally 50/50 pursuant to a separate operations agreement between DWR and USBR.
  
4. **COMPLIANCE WITH APPLICABLE LAWS AND OBTAINING APPROVALS**
  - (a) The Districts shall comply with all applicable laws and regulations including but not limited to the California Environmental Quality Act (CEQA), California Endangered Species Act (CESA), the Federal Endangered Species Act (FESA) and shall secure any required consents, permits, reports, and orders and shall provide DWR with copies of the same prior to providing the Delivery under this Agreement.
  - (b) Districts have determined the Project is categorically exempt from the CEQA because it will result in the provision of supplemental instream fishery flows pursuant to 14 California Code of Regulations Section 15301(i) and in the ongoing operation of the existing system without change in operation or expansion of use pursuant to 14 California Code of Regulations, section 15301 (Class 1).
  - (c) Districts shall be responsible for obtaining any necessary approval from any relevant government entities for providing the Delivery. The Districts shall email to DWR any submissions related to this Agreement that the Districts make to any



government entity.

- (d) DWR will file a Notice of Exemption based on CEQA Guidelines Section 15301 (Existing Facilities) upon execution of this Agreement with the State Clearinghouse. pursuant to the Governor's Executive Order B-28-14 issued December 22, 2014 and Executive Order B-29-15 issued April 1, 2015, DWR's responsibilities under CEQA have been temporarily suspended for drought relief actions.
- (e) SLDMWA has determined the Project is categorically exempt from the CEQA because it will result in the provision of supplemental instream fishery flows pursuant to 14 California Code of Regulations Section 15301(i) and in the ongoing operation of the existing system without change in operation or expansion of use pursuant to 14 California Code of Regulations, section 15301 (Class 1).
- (f) If a Party is required to pay a fine or civil penalty for any of its actions related to this Agreement, then that Party alone shall be responsible for paying the fine or penalty.

5. **PURCHASE PRICE:** SLDMWA and DWR agree to pay two hundred and fifty dollars (\$250) per acre foot of water Delivered.

6. **WATER QUALITY:** The Districts make no warranty or representations as to the quality or fitness for the Delivery.

7. **WATER MEASUREMENT AND DELIVERY:** DWR and SLDMWA are paying Districts to provide up to 16,000 acre-feet to USBR in New Melones Reservoir. The payment shall be based on the actual flows released by USBR from Goodwin Dam in accordance with the October "pulse flow" identified in the Stanislaus River Minimum Fish Flow Schedule for critically dry year types per Appendix 2-E of the June 2009 National Marine Fishery Service (NMFS) Biological Opinion on the long-term operations of the Central Valley Project and State Water Project. For the purposes of this agreement the "pulse flow" volume will be measured as the Goodwin release exceeding a base flow of 200 cfs. Through concurrence with NMFS the timing of the pulse flow period may be shifted to overlap into early November. Delivery released from Goodwin Dam shall be measured on a daily basis by USBR at the Goodwin Gauge and confirmed by USBR and DWR. The Districts and SLDMWA acknowledge that USBR shall be responsible for determining the flow and schedule of the Delivery and DWR shall be responsible for verifying the flow and schedule of the Delivery.

8. **PAYMENT:**

- (a) Districts shall invoice SLDMWA and DWR each 50% of the Delivery up to a total of 16,000 acre-feet provided at the price identified in Section 4 above after USBR and DWR have confirmed the amount of water released by USBR from Goodwin

Dam in accordance with paragraph 7.

(b) SLDMWA shall pay within 60 days of receipt of the invoice.

(c) Districts shall submit two copies of each invoice to DWR Accounting Office, Contracts Payable Unit, P.O. Box 942836, Sacramento, California, 94236-0001. DWR shall pay undisputed invoices within 45 days of the date received by the Accounting Office, pursuant to the Prompt Payment Act as specified in Government Code, Chapter 4.5 (commencing with Section 927).

9. **INTEREST:** SLDMWA shall pay the Districts interest at the annual interest rate of ten percent on any charges that remain unpaid 60 days beyond the due date. DWR shall pay the Districts late payment penalties in accordance with the Prompt Payment Act.

10. **DISTRICT LIMITING CONDITIONS:**

(a) The Districts' obligations to make available the quantity of water specified in Paragraph 3 of this Agreement will, at all times, be subject and subordinate to the following conditions:

- (1) the terms and conditions of their water rights as they currently exist;
- (2) the 1988 Agreement and Stipulation with Reclamation (the "1988 Agreement");
- (3) the Tulloch Enhancement Agreement with PG&E, as it now exists and as modified from time to time;
- (4) the Goodwin Agreement, as it now exists and as modified from time to time;
- (5) the terms and conditions of Federal Energy Regulatory Commission licenses, as they now exist, and as they may be amended and/or renewed upon relicensing including, but not limited to, those held for Tulloch and Goodwin Dams;
- (6) the rights of landowners, within the boundaries of OID or SSJID as of the initial delivery of water purchased pursuant to this Agreement hereunder, to the beneficial use of their respective District's water;
- (7) applicable federal and state laws now in existence and as modified from time to time, affecting the Districts' rights or obligations, and
- (8) the rights of the cities of Lathrop, Manteca, Escalon and Tracy pursuant to each city's Water Supply Development Agreement with SSJID.

(b) The conditions described in 1-8, inclusive, above, are collectively referred to as the District Limiting Conditions. Nothing in this Agreement shall be construed so as to contradict, conflict with or otherwise be contrary to the provisions of any of the District Limiting Conditions; and in the event of any conflict between any of the District Limiting Conditions and this Agreement, the District Limiting Condition(s) shall control, and Districts shall not be deemed to be in violation of this Agreement by any modifications of the Agreement, including reduced supply for SLDMWA and DWR, required to ensure compliance with any of the District Limiting Conditions.

11. **SLDMWA and DWR LIMITING CONDITIONS:** The obligations of Districts to Deliver water to USBR and of SLDMWA and DWR to pay for Delivery are at all times subject to the approval of this Agreement for Release of Water and subordinate to USBR approval of the use of facilities that it owns. If the Districts do not obtain this approval, this Agreement shall automatically terminate and SLDMWA and DWR shall have no further obligations.

12. **DELIVERY:** Consistent with Paragraph 7, Districts will make Delivery to USBR in September 2016 in the amount and based on a schedule developed by the Districts and USBR. USBR will release the Delivery consistent with that schedule subject to the limitations described in Paragraphs 10 and 11 of this Agreement. No subsequent changes to the schedule, regulatory conditions or other intervening matters, including litigation and stream adjudication brought by third parties, or actions of any state or federal agency exercising jurisdiction or claiming an interest and/or right to reduce and/or modify operations and/or quantities of water otherwise available to the Districts; diversions outside the control of Districts which may hereafter be authorized for others from the North, Middle or South Forks of the Stanislaus River, and any action, legislation, ruling or determination adverse to the Districts affecting the Agreement and beyond the reasonable control of the Districts shall modify the obligations of the Parties with respect to water so delivered.

13. **WATER SUPPLY REDUCTIONS:** The Districts may reduce the Delivery for any of the following reasons: the Limiting Conditions; failure of facilities; intervening acts, including litigation and stream adjudication brought by third parties, or actions of any state or federal agency exercising jurisdiction or claiming an interest and/or right to reduce and/or modify operations and/or quantities of water otherwise available to the Districts; diversions outside the control of Districts which may hereafter be authorized for others from the North, Middle or South Forks of the Stanislaus River, and any action, legislation, ruling or determination adverse to the Districts affecting the Agreement and beyond the reasonable control of the Districts. Districts shall make good faith efforts to avoid such reductions, but SLDMWA and DWR agree that Districts shall not be liable for reductions of supply in this Agreement due to such causes. SLDMWA and DWR shall have no obligation to pay for water not Delivered because of a reduction caused by factors listed in this Paragraph.

14. **APPROVALS AND COSTS:** SLDMWA and DWR are solely responsible for any costs associated with the USBR release of Delivery from New Melones Reservoir. This Paragraph survives termination or expiration of this Agreement.

15. **LITIGATION COSTS:** Districts agree to defend their own interests in any litigation or regulatory action challenging the validity of Districts' water rights. The Parties shall each defend their own interests in litigation or regulatory action involving this Agreement, including environmental compliance and purchase of the Delivery. All Parties agree to reasonably cooperate with each other in the defense of any litigation that may be filed as a result of this Agreement. This Paragraph survives termination or expiration of this Agreement.

16. **EXPENSES:** Districts shall be responsible for all expenses, including but not limited to legal, environmental, engineering consultant's fees, expenses incurred to obtain any and all necessary approvals and to satisfy all environmental requirements, including CEQA and/or NEPA, required to effectuate the Agreement, and to defend against any litigation challenging the Agreement or the approvals, water rights or environmental reviews associated with the Agreement. This Paragraph survives termination or expiration of this Agreement.

17. **COOPERATION:** To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.

18. **WAIVER OR RIGHTS:** Any waiver, at any time, by any Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

19. **ASSIGNMENT:** This Agreement is entered into in reliance on water supplies available to Districts in 2016 and USBR's need for water in 2016 to meet the pulse flow during October and November 2016 provided under the 2009 Biological Opinion issued by the National Marine Fisheries Service for Coordinated Operations of the CVP and SWP OCAP-BO, and therefore any attempted assignment of this Agreement in whole or in part without the prior written consent of all Parties hereto is void.

20. **NOTICES:** All notices that are required, either expressly or by implication, to be given by any Party to the other under this Agreement shall be signed for by Districts and SLDMWA and DWR by such officers as they may, from time, authorize in writing to so act.

Any notices to Parties required by this Agreement shall be hand-delivered or mailed, United States first-class postage prepaid, or electronic mail followed by written notice sent by U.S. mail and addressed as follows:

**OAKDALE IRRIGATION DISTRICT**

Steve Knell, General Manager/Secretary  
Oakdale Irrigation District  
1205 East "F" Street  
Oakdale, CA 95361  
Email: [srknell@oakdaleirrigation.com](mailto:srknell@oakdaleirrigation.com)  
Phone: (209) 847-0341

**SOUTH SAN JOAQUIN IRRIGATION DISTRICT**

Peter Rietkerk, General Manager/Secretary  
South San Joaquin Irrigation District  
11011 East Highway 120  
Manteca, CA 95336  
Email: prietkerk@ssjid.com  
Phone: (209) 249-4645

**SAN LUIS & DELTA- MENDOTA WATER AUTHORITY**

Jason Peltier, Executive Director  
P.O. Box 2157  
Los Banos, CA 95635  
Email: jason.peltier@sldmwa.org  
Phone: 209-826-9696

**CALIFORNIA DEPARTMENT OF WATER RESOURCES**

Chief, State Water Project Analysis Office  
c/o Nancy Quan  
Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236-0001  
Email: nancy.quan@water.ca.gov  
Phone: 916-653-4313

Notice shall be deemed given (a) two (2) calendar days following mailing via regular or certified mail, return receipt requested, (b) one (1) business day after deposit with any one-day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile, whichever is earlier. The Parties shall promptly give written notice to each other of any change of address, and mailing or shipment to the addresses stated herein shall be deemed sufficient unless written notification of a change of address has been received.

21. **APPROVALS**: Where the terms of this Agreement provide for action to be based upon a judgment, approval, review or determination of any Party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious or unreasonable.

22. **DISPUTE RESOLUTION**: In the event of any dispute regarding interpretation or implementation of this Agreement, the Director of DWR and authorized representatives from the Districts and SLDMWA shall endeavor to resolve the dispute by meeting within 30 days after the request of a Party. If the dispute is unresolved, the Parties shall use the services of a mutually acceptable consultant in an effort to resolve the dispute. Parties involved in the dispute shall share the fees and expenses of the consultant equally. If a consultant cannot be agreed upon, or if the consultant's recommendations are not

acceptable to the Parties, and unless the Parties otherwise agree, the matter may be resolved by litigation and any Party may, at its option, pursue any available legal remedy including, but not limited to, injunctive and other equitable relief.

23. **OTHER AGREEMENTS:** Nothing contained herein restricts the Districts from providing water services and sales to others as authorized by law which do not unreasonably interfere with Districts' obligation hereunder.

24. **ENTIRE AGREEMENT:** This Agreement constitutes the entire Agreement between the Districts, SLDMWA and DWR, and supersedes any oral agreement, statement or promise between them relating to the subject matter of the Agreement. Any amendment, including oral modifications, must be reduced to writing and signed by all Parties to be effective.

25. **UNIQUENESS OF AGREEMENT:** This Agreement is unique because of the critically dry year conditions and shall not be considered to set a precedent for future agreements or DWR activities.

26. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the Parties of at least one set of counterparts. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

27. **SIGNATURE CLAUSE:**

a. The signatories represent that they have appropriate authorization to enter into this Agreement on behalf of the Party for whom they sign.

b. If required by internal governing rules of OID, SSJID, or SLDMWA, that Party as appropriate, shall deliver to DWR a copy of the Board of Directors resolution and/or other documentation authorizing that Party to enter into this Agreement.

28. **GENERAL INTERPRETATION:** The terms of this Agreement have been negotiated by the Parties hereto and the language used in this Agreement shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any Party.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first above written.

**PARTIES:**

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

By: \_\_\_\_\_  
Jason Peltier, Executive Director

Date \_\_\_\_\_

CALIFORNIA DEPARTMENT OF WATER RESOURCES

By: \_\_\_\_\_  
Carl Torgersen, Deputy Director

Date \_\_\_\_\_

OAKDALE IRRIGATION DISTRICT

By: \_\_\_\_\_  
Steve R. Knell, General Manager

Date \_\_\_\_\_

SOUTH SAN JOAQUIN IRRIGATION DISTRICT

By: \_\_\_\_\_  
Peter Rietkerk, General Manager

Date \_\_\_\_\_