

4. PROPOSED PROJECT

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4.1 INTRODUCTION

The proposed project is the Monterey Amendment and the Settlement Agreement. This chapter outlines the project objectives and describes the provisions of the Monterey Amendment and the Settlement Agreement.

4.2 PROJECT LOCATION

The proposed project is primarily an administrative action and does not have a specific physical location. However, the effects of the administrative action could be felt over large areas of the state. For the purposes of the assessment of impacts, the project area consists of the SWP facilities, the Sacramento-San Joaquin Delta, rivers tributary to the Delta, the SWP service area, the SWP contractor service areas (see Figures 2-1 and 2-3) and any other areas that could be influenced by the proposed project. Site-specific portions of the project include watershed areas of Plumas County, the Lake Davis area of Plumas County, Castaic Lake and Lake Perris, and the Kern Fan area of Kern County. The latter includes areas outside SWP contractor service areas where SWP water could be stored for later use within the service area.

4.3 PROJECT OBJECTIVES

The overall objective is to resolve the underlying issues that led to the Monterey Amendment and implement the Settlement Agreement.

4.3.1 Objectives of the Monterey Amendment

Specific objectives of the Monterey Amendment are to:

- Resolve conflicts and disputes among SWP contractors regarding water allocations and financial responsibilities for SWP operations;
- Restructure and clarify procedures for SWP water allocation and delivery during times of shortage and surplus;
- Reduce financial pressures on agricultural contractors in times of drought and supply reductions;
- Adjust the financial rate structure of the SWP to more closely match revenue needs;
- Facilitate water management practices and water transfers that improve reliability and flexibility of SWP water supplies in conjunction with local supplies;
- Resolve legal and institutional issues related to storage of SWP water in Kern County groundwater basins, and in other areas;

The Monterey Agreement provided in Principle 13 that the proposal was an integrated package. Contractors had to choose to participate in all the provisions of the Agreement or none. In other words, the Monterey Amendment resulted from a package deal of negotiated concessions that required achieving all of the above objectives in order to settle significant disputes among the

contractors. Both agricultural and M&I contractors gave up rights or benefits to make the agreement work. Both had to also gain new rights or benefits or there would have been no reason to sign the agreement. The reasons for signing may have been different for each contractor, but each one had to believe that it would benefit from the changes as a whole.

4.3.2 Objectives of the Settlement Agreement

Specific objectives of the Settlement Agreement are to:

- Communicate SWP supply reliability information to SWP contractors and local planning jurisdictions and clarify related SWP contract language;
- Enhance public review of SWP contract amendments and public participation in environmental review;
- Provide assurances regarding finality of certain Table A transfer and transfer of title to the Kern Fan Element land and assurances regarding environmental protection of Kern Fan Element lands.
- Increase SWP watershed enhancement activities in Plumas County and improve Plumas County's access to SWP water.
- provide funding to plaintiffs to implement the Settlement Agreement including watershed restoration projects

While the Settlement Agreement does not have the same language that the Monterey Agreement had with regard to an integrated package, the Settlement Agreement also was a package deal of negotiated concessions that required achieving all of the above objectives in order to settle significant disputes between the parties. Thus to fulfill the intent and purpose of the project, it is essential that all of the above objectives are achieved.

4.4 PROJECT DESCRIPTION – MONTEREY AMENDMENT

The changes to the SWP contracts from the Monterey Amendment can be grouped according to the six basic objectives identified previously. Table 4-1 shows the relationship between individual articles in the Monterey Amendment and the six objectives. These objectives correspond to five elements that modify the long-term SWP water supply contracts. These five areas are listed and discussed below:

- Changes in the procedures for allocation of Table A water and surplus water among the SWP contractors;
- Approval to permanent transfers of 130,000 acre feet and retirement of 45,000 acre-feet of SWP long-term water supply contracts' Table A amounts;
- Transfer of property known as the "Kern Fan Element property" in Kern County;
- Water supply management practices; and
- Restructured rates.

The Monterey Amendment to the long-term water supply contract is included in Appendix C. Article 1 of the contract includes definitions of terms used in the contract.

TABLE 4-1		
SUMMARY OF MONTEREY AMENDMENT		
Article	Summary	Relationship with Objectives
1(d)	Modifies the definition of "Contractor" to include an assignee.	0
1(k)	Revises the definition of "Minimum SWP Yield" to reduce the SWP's estimated "Minimum SWP Yield" from 4.23 to 4.185 MAF/yr.	1,2
1(hh)	Expands definition of "Water System Facilities" to include a SWP Corporation Yard and SWP Operation Center.	0
1(jj)	Adds definition for "Interruptible water."	0
1(kk)	Adds definition for "Non SWP water."	0
1(ll)	Adds definition for "Monterey Amendment."	0
4	Adds reference to the new Article 55 (and deletes reference to Article 18(b)) as an additional item for consideration of options for continued service.	0
7(a)	Provides the State's approval for amendments of Table A amounts subject to financial feasibility of SWP facilities.	1
12	Changes title to "Priorities, Amounts, Times and Rates of Deliveries."	0
12(a)(2)	Clarifies that Department review and modification of contractor delivery schedules be made consistent with Article 18.	0
12(d)	Deletes provision that provided for delayed delivery of scheduled Table A water in a year or the succeeding year when the State is unable to deliver water as a result of causes beyond its control.	1
12(f)	Adds priorities for delivery of Table A, interruptible, non-SWP; deferred Table A, and Table A water that was stored pursuant to Articles 12(e) and 56.	1,2
14(a)	Expands conditions which justify curtailed deliveries to include outages or reductions in capability of facilities outside of State's control or unusability of SWP water due to an emergency affecting the SWP facilities.	2
14(b)	Limits delivery obligation to a year or the succeeding year in provision that provides for delayed delivery of scheduled water which, under the terms of Article 14(a), the State did not deliver.	2
16(a)	Reduces sum of maximum Table A amounts to 4.185 MAF.	1
18(a)	Clarifies that shortage provisions apply to conditions due to any cause whatsoever instead of only temporary causes.	2
	Revises allocation procedures to be based on each contractor's annual Table A amount with no initial reduction to agricultural contractors when SWP supplies are less than the contractors' requests.	1,2,3
	Specifies that if a contractor is allocated more water than it requested, then the excess water be reallocated among the other contractors.	1,2,3
18(b)	Deletes provision for reducing Table A amounts when there is a threatened permanent shortage of the types specified.	2
18(d) & (e)	Eliminates references to deleted Article 18(b).	0
21	Changes title from Surplus Water to Interruptible Water Service. Eliminates provisions for scheduled "surplus" water and renames "unscheduled water" as "interruptible water." Cancels all water credits owed to contractors pursuant to Article 12(d), wet weather water agreements and Article 14(b) water accumulated prior to 1995. Specifies delivery conditions for interruptible water.	1,2
	Specifies that interruptible water allocation follow procedures set forth in Article 18(a).	1,2
	Confirms that power charges for delivery of interruptible water equal to Table A water.	1,2
22(j)	Confirms that reductions in payments under the new Article 51 do not affect the conservation portion of the water system revenue bond financing costs.	4
24(b)	Provides that the State will not retroactively calculate capital costs for Table A amount transfers or Table A amount changes.	4
24(g)	Confirms that reduction in payments due to Article 51 do not affect the transportation portion of the water system revenue bond financing costs.	4
25(d)(3)	Confirms that off-aqueduct costs will apply to non-SWP water as well as SWP water.	4
50(j)	Confirms that reductions in payments due to Article 51 shall not affect water system revenue bond financing costs.	4

TABLE 4-1		
SUMMARY OF MONTEREY AMENDMENT		
Article	Summary	Relationship with Objectives
51	Establishes a General Operating Account to provide funds during an emergency or cash flow shortage.	4
	Establishes a State Water Facilities Capital Account to pay capital costs of the State Water Facilities for which neither general obligation bond or revenue bond proceeds are available.	4
	Calculates annual financial needs to determine charge reductions or supplemental billings.	4
	Determines and apportions charge reductions.	4
	Provides for reviews financial requirements.	4
	Establishes an Agricultural Rate Management Trust Fund.	4
52	Specifies that State convey land for proposed Kern Fan Element to KCWA.	6
	Transfers 50 percent of SWP water remaining in storage from the 1990 Berrenda Mesa Demonstration Program and the La Hacienda Water Purchase Program to KCWA.	6
	Specifies that the State retain remaining 50 percent of SWP water (approximately 42,828.5 acre-feet).	6
	Specifies that any other Kern Water Bank demonstration program water remain as SWP water	6
53	Specifies that agricultural contractors make available up to 130,000 acre-feet of Table A amounts (and related conveyance capacity rights) for permanent transfer from agricultural contractors to urban contractors or non-SWP contractors.	1,3,5
	Specifies that other individual SWP contractors may transfer Table A amounts among themselves in addition to the 130,000 acre-feet.	5
	Specifies that KCWA's agricultural Table A amount permanently decrease by 40,670 acre-feet and Dudley Ridge WD's by 4,330 acre-feet of its Table A amount.	1,3,5
54	Allows specified contractors participating in the repayment of Castaic Lake and Lake Perris to withdraw water in excess of approved SWP deliveries up to specified limits for up to five years from Castaic Lake (MWDSC, Castaic Lake WA, and Ventura County FCD) and Lake Perris (only MWDSC) Withdrawal and replacement delivery schedules subject to Department approval.	5
55	Confirms contractors may use SWP transportation facilities to transport non-SWP water to their service areas and to interim storage outside their service areas for later delivery to their service areas.	5
	Confirms power charges for delivering non-SWP water equal to Table A water.	5
56	Allows contractors to store SWP water outside their service areas for later use within its service area.	5
	Sets no limit on storage of SWP water in groundwater storage facilities and sets limits on storage of SWP water in surface storage facilities.	5
	Makes excess storage capacity in SWP surface conservation facilities available to requesting contractors for as long as capacity is available. Requests be included with preliminary water delivery schedule submitted by contractors pursuant to Article 12(a).	5
	Allocates available storage capacity on the basis of Table A amounts if storage requests exceed available excess storage capacity.	5
	Establishes a Turnback Pool program to allow sale of excess allocated Table A water during a year by contractors to other SWP contractors who do not elect to store SWP water in SWP storage facilities in that year and do not elect to carry over water from the prior year pursuant to Article 12(e).	5
	Clarifies that the article's provisions do not prevent a contractor from participating in bona fide exchanges of SWP water for use outside the contractor's service area if the State consents to the exchange.	5
General	State to administer water supply contracts of contractors that do not sign the Monterey Amendment so that such contractors are not affected adversely or beneficially by the Monterey Amendment of other contractors.	0

TABLE 4-1		
SUMMARY OF MONTEREY AMENDMENT		
Article	Summary	Relationship with Objectives
General	If any part of the Monterey Amendment or if the conveyance of the Kern Fan Element property to KCWA is determined to be invalid or unenforceable, the Monterey Amendments of all contractors and the contract for transferring the Kern Fan Element property from the State to KCWA are of no force and effect.	0
Notes: Relationship to Objectives 0. Contract language changes not linked to a particular objective (i.e. definitions, references, etc). 1. Resolve conflicts and disputes among SWP contractors regarding water allocations and financial responsibilities for SWP operations. 2. Restructure and clarify procedures for SWP water allocation and delivery during times of shortage and surplus. 3. Reduce financial pressures on agricultural contractors in times of drought and supply reductions. 4. Adjust the financial rate structure of the SWP to more closely match revenue needs. 5. Facilitate water management practices and water transfers that improve reliability and flexibility of SWP water supplies in conjunction with local supplies. 6. Resolve legal and institutional issues related to storage of SWP water in Kern County groundwater basins, and in other areas.		

4.4.1 Changes in the Department's Allocation of Table A Water and Article 21 Water

The Monterey Amendment revised the temporary shortage provision in Article 18(a) that specified an initial reduction of supplies for agricultural use when requests for SWP water exceeded the available supply. The revised Article 18(a) specifies that whenever the supply of Table A water is less than the total of all contractors' requests, the available supply of Table A water is allocated among all contractors in proportion to each contractor's annual Table A amount.

The Monterey Amendment eliminated Article 18(b) of the SWP long-term water supply contracts. Article 18(b) addressed permanent water shortages that might occur if the Department was for any reason, including inability to develop sufficient additional conservation facilities, unable to prevent a reduction in the minimum SWP yield of the SWP (4.23 million AF per year). The reason for eliminating Article 18(b) is not described in the Monterey Agreement. However, once the agriculture first shortage provision was eliminated, it would no longer be needed to protect agricultural water users from excessive shortages. With the elimination of the agricultural first shortage provisions, it no longer mattered whether a shortage was a temporary one or a permanent one, since the allocation of the available supply would be the same in either situation.

The Monterey Amendment amended Article 21 by eliminating the category of "surplus water" which was available for scheduled delivery. The amendment to Article 21 also included the elimination of the restriction on Article 21 supply to preclude deliveries for uses that "would tend to encourage the development of an economy ... which would be dependent upon the sustained delivery of surplus water." The Monterey Amendment also renamed "unscheduled water" as "interruptible water". The Department now refers to interruptible water as "Article 21 water," which is the term used in this EIR. Article 21 water is similar to the pre-Monterey unscheduled water and is highly unpredictable and unreliable. For signers of the Monterey Amendment, Article 21 water is allocated when the SWP's share of San Luis Reservoir is full, or projected to be full in the near term; other SWP reservoirs are full or at their storage targets, or the conveyance capacity to fill these reservoirs is maximized; the Delta is in "excess" conditions (see Chapter 6); Table A deliveries are being fully met; and the Banks Pumping Plant has spare capacity. It is no longer prioritized for agricultural use or groundwater replenishment; nonetheless, a large part of this water supply is still delivered to the San Joaquin Valley for such purposes.

Prior to the Monterey Amendment, the Department charged the contractors the same power charges for pumping surplus water as it did for pumping Table A water. The revised Article 21 formalized the Department's power charges for pumping Article 21 water. Furthermore, Article 21 together with Paragraph 28 of the Monterey Amendment eliminated: (1) Article 12(d), which provided a later delivery of allocated Table A water which was deferred as a result of causes beyond the State's control, and any Article 21(d) delivery credits; and (2) wet weather water and wet weather credits which some contractors accumulated when local conditions in their respective service area were so wet that their need for SWP water was reduced. A change to Article 14(b) limited the Department's delivery obligation when it did not deliver scheduled Table A water due to an SWP outage to delivery only through the next year based on specified conditions. Article 12(d), 14(b), and wet weather water are discussed in detail in Chapter 2.

The result of these contractual changes is that the Department now allocates Table A and interruptible water among contractors in proportion to annual Table A amounts without consideration of whether the water would be used for M&I or agricultural purposes and without consideration of contractor's actual Table A demand. Agricultural and M&I contractors share any reductions in deliveries or opportunities for Article 21 water in proportion to their annual Table A amounts.

4.4.2 Permanent Transfers and Retirement of Table A Amounts

The Monterey Amendment added Article 53 to the long-term water supply contracts. Article 53 provides that agricultural contractors, namely County of Kings, Dudley Ridge WD, Empire West ID, KCWA, Oak Flat WD, and Tulare Lake WSD, will make available 130,000 acre-feet of Table A amounts and related transportation capacity, for permanent transfer to M&I contractors or non-contractors on a willing buyer and willing seller basis. KCWA is responsible for making available any portion of the 130,000 acre-feet not previously made available under this article by the other agricultural contractors. In addition, Article 53 required KCWA and Dudley Ridge WD to permanently retire a total of 45,000 acre-feet of Table A amount. This Table A amount retirement reduced the amount in the long-term water supply contracts that the sum of the maximum annual Table A amounts of all contractors was not to exceed from 4,230,000 acre-feet to 4,185,000 acre-feet.

4.4.3 Transfer of Kern Fan Element Property in Kern County

In the 1980s, the Department purchased approximately 20,000 acres of land overlying a ground water basin in Kern County for the purpose of developing the property as one part of a larger imported-water groundwater banking project called the Kern Water Bank (KWB). As envisioned, the KWB would consist of a series of "elements," which would be geographically separate banking projects that would be operationally integrated. The largest of these elements, the Kern Fan Element (KFE), for which efforts to develop occurred first, was to be followed by a number of local elements developed with several water districts in Kern County. The Department planned to develop the property it purchased into the KFE of the KWB, and the property is referred to as the KFE property. There were many questions about the feasibility of developing the property as a SWP project and whether required local approval could be obtained, as described in further detail in Appendix E, Section I.A. In 1993, uncertainties regarding the proposed groundwater storage facility ultimately lead to the Department halting feasibility studies and design work on the KWB.

The Monterey Amendment added Article 52 to the long-term water supply contracts. Article 52 required the Department to convey the KFE property including all fixtures to KCWA. In addition, as part of the ongoing development of groundwater banking programs during the 1980s/1990s, the Department had stored SWP water as part of the Berrenda Mesa Demonstration Program and had acquired groundwater for the SWP through the La Hacienda Water Purchase Program. Article 52 also required that one-half of such water in these two programs be relinquished to KCWA. Article 52 also provides that, subject to KCWA approval, other SWP contractors may be provided access to, and use of the property, for groundwater storage and later recovery for delivery to their service areas.

4.4.4 Water Supply Management Practices

Articles 54, 55, and 56 of the Monterey Amendment contain provisions intended to provide more consistency and greater flexibility in SWP contractors' use of existing SWP storage and conveyance facilities and to promote groundwater banking, conjunctive use of local and SWP water sources, and earlier and more efficient use of excess allocated Table A water.

Contractors' use of Castaic Lake and Lake Perris – Flexible Storage

Article 54 provides contractors that were participating in repayment of capital costs of Castaic Lake and Lake Perris the flexibility to withdraw SWP water in amounts from the reservoirs in addition to their allocated SWP water. The MWDSC, Ventura County FC&WCD, and Castaic Lake WA participate in the repayment of capital costs for Castaic Lake and may collectively withdraw up to 160,000 AF from the reservoir. MWDSC, Coachella Valley WD and Desert WA participate in the repayment of capital costs for Lake Perris, but through agreement, MWDSC is the only contractor that can withdraw water from Lake Perris, and it may withdraw up to 65,000 AF from the reservoir. A contractor that withdraws water is required to replace that water within five years after the withdrawal occurs. If it fails to do so, the Department would replace the water in the sixth year, or as soon as possible thereafter, with SWP water otherwise approved for delivery to that contractor. The participating contractors are to cooperate with each other to minimize adverse impacts to each other. The withdrawal and replacement delivery schedules are subject to approval by the Department. Borrowing and replacement of Castaic Lake and Lake Perris water by contractors is referred to as flexible storage.

Transport of non-SWP Water

Article 55 provides contractual terms for the conveyance and delivery of non-SWP water to the contractors' service areas through SWP facilities when sufficient capacity is available. Prior to the Monterey Amendment, the Department had conveyed and delivered non-SWP water for requesting contractors on a number of occasions, as described in Chapter 2. This article specifies details regarding delivery and costs of delivery. Non-SWP water may be conveyed to the contractor's service area, or to a location outside the contractor's service area for storage and later delivery to the contractor's service area. This article clarifies that the power charges for conveying non-SWP water are the same as for conveying Table A water. Article 12(f), which was also added by the Monterey Amendment, sets priorities for the conveyance of both SWP water and non-SWP water.

Storage in SWP facilities and outside Contractors' Service Areas

Prior to Monterey the Department approved storage of water in both SWP facilities and in storage areas outside contractors' service area on a case by case basis (see discussion of this

in Chapter 2). Article 56(a) provides that the SWP contractors may store SWP water outside their service area for later use within their service area and specifies details regarding such storage.

Under Article 56(c), contractors may store SWP and non-SWP water in SWP conservation reservoirs, and SWP water in non-SWP surface reservoirs or groundwater banks outside their service areas. Article 56(c) limits the amount of SWP water that can be added to storage each year in surface reservoirs outside contractors' service areas but places no limit on the amounts of water that can be stored in groundwater banks outside contractors' service areas. Storing contractor water in SWP conservation reservoirs is allowed when the storage capacity is not needed by the SWP for SWP purposes. The most likely location of available SWP storage capacity is San Luis Reservoir. Contractors submit requests to the Department to carry over allocated Table A water from one year to the next and the Department allocates available storage among requesting contractors in proportion to their annual Table A amounts, as specified in the article.

As the Department needs the storage space for SWP purposes, the carryover water stored for contractors reverts to SWP supply at the same rate the Department would otherwise have been able to fill that storage.

Turnback Pool

Article 56(d) establishes a program that allows a contractor with more allocated SWP water than it needs in any year to offer its excess Table A water for sale to other contractors or to the Department. Contractors having excess allocated Table A water can turn back water to the SWP turnback pool program early in the year for sale to other SWP contractors for their use, or to the Department for SWP carryover storage for the following year. In return, that contractor is paid a rate equal to a percentage of the Delta water rate. Previously, when a portion of a contractor's allocated Table A water was not taken, it became available, either late that year or the following year, for other SWP purposes including reallocation to other contractors with unmet needs. The turnback pool enables contractors to be partially compensated for unused allocated Table A water purchased by other SWP contractors and increases the likelihood that any excess allocated water would be available to other contractors early enough in the year to be managed and used more efficiently.

4.4.5 Restructured Rates

Article 51 created a General Operating Account and a State Water Facilities Capital Account. The General Operating Account is to provide funds needed to meet obligations under the Burns-Porter Act in the event of emergency or cash flow shortages. Initial deposits into this account came from revenue bond reserves that were no longer required by revenue bond covenants and that would otherwise have been credited to the contractors. The State Water Facilities Capital Account is established to pay capital costs of the State Water Facilities for which neither general obligation bond nor revenue bond proceeds are available.

Each year the Department calculates the annual statement of charges for each SWP contractor and determines the finance needs of the SWP for the following year. The contractors receive a reduction to their charges if the revenues exceed the payments for general obligations bonds, revenue bonds, maintenance, operation, and replacement costs, reimbursement of the California Water Fund, and deposits into the State Water Facilities Capital Account.

Article 51 requires the Department to review the financial requirements of the State Water Resources Development System every five years. The first review was conducted in 2001. Article 51 also establishes an Agricultural Rate Management Trust Fund. The amount of any reduction in charges for agricultural contractors is instead deposited by them into this trust fund. These deposits are then available to these agricultural contractors to help meet their SWP financial obligations in years in which they receive less than their requested annual Table A amounts for that year. In addition, the trust fund will help Tulare Lake Basin WSD meet its financial obligations in years when its irrigable land is flooded.

4.5 PROJECT DESCRIPTION - SETTLEMENT AGREEMENT

Major provisions of the Settlement Agreement can be grouped according to the five basic objectives identified previously. Table 4-2 shows the relationship between individual provisions in the Settlement Agreement and the five objectives. These objectives correspond to six elements as discussed below. The complete Settlement Agreement is contained in Appendix E. In addition to establishing a process for involving plaintiffs and contractors in the development of the new EIR on the Monterey Amendment, the Settlement Agreement provides the following:

- The Department will communicate SWP water reliability information by substituting the term "Table A amount" for "entitlement" in the SWP contracts and by implementing new procedures for disclosure of SWP delivery reliability;
- The Department will provide for better public review of major SWP actions by issuing guidelines on the Department's review of permanent transfers of Table A and issuing principles for a public participation process in negotiations for certain SWP long-term water supply contract amendments, including Table A transfers;
- Certain Table A transfers under the Monterey Amendment are recognized as final.
- Assurances regarding the KFE property transfer are provided including confirmation that title to the KFE property was retained by the Kern Water Bank Authority (KWBA). Restrictions on the use of the KFE lands were included and the Department was required to analyze some operations of the KWBA-developed Kern Water Bank in an independent study;¹
- Certain measures are implemented pertaining to Plumas, including provisions relating to the Plumas Watershed Forum, funding for watershed restoration and other purposes and amendment of Plumas' SWP contract with respect to access to SWP water;
- The Department will provide funding to the plaintiffs for multiple purposes including watershed restoration;

4.5.1 Communicate SWP water reliability information

Substitution of the Term "Table A Amount" for "Entitlement" in the SWP Contracts

Section VII.B requires the Department to replace the term "entitlement" in the SWP contracts with the term "Table A amount." (see Appendix A to the Settlement Agreement).

New Procedures for Disclosure of SWP Delivery Reliability

Section VII.D requires the Department to prepare a report every two years describing the reliability of SWP water deliveries under a range of hydrologic conditions. The report must be sent to all SWP contractors, city and county planning departments, and all regional and

Article	Summary	Relationship with Objectives
I	Provides definitions of terms used in settlement agreement	0
II	Authorizes on an interim basis the administration and operation of the SWP and Kern Water Bank in accordance with the Monterey Amendment, the Settlement Agreement, and Attachment A Amendments on an interim basis until court order is issued discharging writ of mandate	1,2
III	Describes content of new EIR and procedures for preparing it	0
III D Attachment E	Recognizes that certain permanent Table A transfers already completed under the Monterey Amendment are final	3
III E	Recognizes that the KCWA-Castaic Lake WA 41,000 acre-feet Table A transfer is subject to pending litigation in the Los Angeles County Superior Court	0
III F	Acknowledges that Kern Water Bank is operating under Kern Environmental Permits which were entered into based on an addendum to the Monterey Agreement EIR. The parties agree not to challenge the Addendum and Kern agrees not to rely on the Addendum for new projects. Requires an independent study by the Department regarding the impacts related to the transfer of the KFE property, and the development and operation of the Kern Water Bank	3
IV A & B	Specifies payments to Plumas County and establishes a forum and program to undertake watershed improvements with emphasis on Feather River watershed	4
IV C & D	Limits Plumas County's exposure to cutbacks during SWP shortages and commits the Department to confer with Plumas County regarding potential reoperation of SWP facilities to increase benefits to Plumas County	4
IV E & F	Relates to future relations between the Department and Plumas County and resumption of Plumas County's SWP payments	4
V	Title of KFE lands remains with KWBA. Limits use of KFE lands including prohibiting development of 490 acres that can be developed under HCP	3
VI	Provides plaintiffs with funding	5
VII A	Prevents the Department or contractors from approving any new projects that rely on the 1995 EIR	2
VII B Attachment A	Provides for execution of an amendment to the SWP contracts that defines several terms including "Annual Table A Amounts," "Maximum Annual Table A Amount," and "Minimum SWP Yield", replaces use of the term "entitlement" with "Annual Table A Amount" and requires the Department to prepare and distribute a report of SWP delivery capability every two years. Deletes a specific amount for the Minimum SWP Yield. Amendment adds language to the bottom of Table A explaining that Table A not be interpreted to mean that the State is able to deliver those amounts in all years	1
VII C	Provides for filing settlement agreement with court	0
VII D Attachments B, C, D	Requires the Department to adopt new policies, procedures, and guidelines that clarify procedures for review of SWP contract amendments and establish principles for public participation in SWP contract negotiations	2
VII E, F, G, H, I, J, K, & L	Specifies various legal procedures	0
VIII	Calls for arbitration to establish attorney's fees	0
IX	Specifies procedures for dispute resolution	0
X	Specifies various legal procedures	0
<p>Notes:</p> <p>Relationship with Objectives</p> <ol style="list-style-type: none"> 0. Not linked to a particular objective. 1. Communicate SWP supply reliability information to SWP contractors and local planning jurisdictions, and clarify related SWP contract language. 2. Enhance public review of SWP contract amendments and public participation in environmental review. 3. Provide assurances regarding finality of certain Table A transfers and transfer of title to the KFE land and assurances regarding environmental protection of the KFE lands. 4. Increase SWP watershed enhancement activities in Plumas County and improve Plumas County's access to SWP water. 5. Provide funding to plaintiffs to implement the Settlement Agreement including watershed restoration projects. 		

metropolitan planning departments in the SWP service area. In addition, the Department must prepare guidelines to assist M&I contractors in integrating SWP delivery reliability information into local agencies' urban water management plans (see Appendix B to the Settlement Agreement).

4.5.2 Greater Public Review of Major SWP Actions

Guidelines for the Review of Permanent Table A Transfers

Section VII.D requires the Department to issue guidelines to describe the process for the Department's review of proposed permanent transfers of Table A amounts. The purpose of the guidelines is to help contractors develop transfer proposals and facilitate the Department's review of the transfer proposals, and to assist the public in participating in that review (see Appendix C, Settlement Agreement).

Principles for Public Participation Process in Contract Amendment Negotiations

Section VII.D requires the Department to provide for public review SWP contract amendments and amendments to transfer Table A amounts. It requires public notice and an opportunity to observe negotiations and to comment in each negotiating session (see Appendix D to the Settlement Agreement).

4.5.3 Recognize Certain Permanent Table A Transfers

Certain permanent Table A transfers from KCWA that were completed under the Monterey Amendment are recognized as final permanent Table A transfers in Attachment E of the Settlement Agreement. These transfers of Table A water had occurred after the signing of the Monterey Agreement and before the completion of the Settlement Agreement negotiations and amounted to 70,781-acre feet of Table A transferred. The transfers are listed in Table 6-3. Project-level environmental documentation had been prepared on all the transfers. There were no challenges within the statutory time period to these transfers. Another transfer of 41,000 AF from Wheeler Ridge-Maricopa to Castaic Lake WA in 1999 was challenged within the statutory time period for challenging CEQA cases. At the time of the Settlement Agreement negotiations, the Castaic Lake WA transfer was the subject of pending litigation in the Los Angeles County Superior Court pending a remand from the District Court of Appeal.²

4.5.4 Assurances regarding Kern Fan Element Lands

Title and restrictions on use

The Settlement Agreement specifies that the KWBA retains title to the KFE property and that KWBA can operate and administer the KFE lands including the water bank, but the Settlement Agreement places certain restrictions on the uses of the lands. If the KWBA determines that use of the lands as a water bank becomes legally or economically infeasible, and the SWP has no other use for the lands or if the Department and KWBA are unable to agree on terms and conditions for such SWP use, then the KWBA may transfer or develop the lands for another purpose, provided that no unmitigable adverse environmental impacts result from the new use. Any net proceeds of land transfer or development will be used by the KWBA for water management purposes. The KWBA developed a Habitat Conservation Plan (HCP) that specifies how the lands over the water bank must be managed to protect endangered species.

The HCP allows a 490-acre parcel of land to be developed for commercial purposes. The Settlement Agreement prohibits commercial development on the 490-acre parcel.

Independent Study

The Settlement Agreement requires the Department, as part of this EIR, to independently study the impacts of the transfer, development, and operation of the water bank KWBA developed on the KFE property (now known as the Kern Water Bank) in light of the Kern environmental permits that have been issued.

4.5.5 Plumas County Issues

Support for a Watershed Forum and Funding for Plumas County to Pursue Watershed Restoration

Funding of up to \$8 million is provided to Plumas County FC&WCD, primarily for watershed improvements for the mutual benefit of Plumas and the SWP in the Feather River watershed, and for other district-related purposes, to be disbursed with input from a watershed forum composed of representatives of Plumas, the Department, and SWP contractors.

Amend Plumas County FC&WCD's SWP Contract with Respect to access to SWP Water

The Department is required to offer Plumas County FC&WCD a contract amendment to its long-term water supply contract which will include the Department's agreement that the allocation of Table A water to Plumas County FC&WCD be determined based on local hydrologic conditions at Lake Davis. The Department will develop strategies for modifying the operations of SWP facilities to provide greater water supply, recreational, and environmental benefits in Plumas County.

4.5.6 Provide Funding to the Plaintiffs for Multiple Purposes Including Watershed Restoration

The Settlement Agreement provides funding of \$5.8 million to the plaintiffs for multiple purposes, including watershed restoration projects, follow-up actions arising from the settlement, and technical studies.

4.6 REQUIRED PERMITS AND APPROVALS

No permits or approvals are required for the proposed project. Operation of the SWP is subject to ongoing environmental regulations including for water quality and endangered species protection.

ENDNOTES

1. The Kern Fan Element property and the Kern Water Banks lands, referenced in the Settlement Agreement, are the same real property (see Settlement Agreement, I.R.).
2. Since that time, CLWA has prepared and certified a new EIR on its transfer of 41,000 AF of Table A amount, which became the subject of new litigation brought by PCL and the California Water Impact Network (CWIN) in Los Angeles County Superior Court.