



**A REGULAR MEETING OF THE OPERATING COMMITTEE
of the
CENTRAL COAST WATER AUTHORITY**

will be held at 9:00 a.m., on Thursday, July 14, 2022
at 255 Industrial Way, Buellton, California

Members of the public may participate by video call or telephone via
URL: <https://meetings.ringcentral.com/j/1444519499>
or telephone by dialing 1(623)404-9000 and entering code #144 451 9499

Public Comment on agenda items may occur via video call or telephonically, or by submission to the Board Secretary via email at lfw@ccwa.com no later than 8:00 a.m. on the day of the meeting. In your email, please specify (1) the meeting date and agenda item (number and title) on which you are providing a comment and (2) that you would like your comment read into the record during the meeting. If you would like your comment read into the record during the meeting (as either general public comment or on a specific agenda item), please limit your comments to no more than 250 words.

Every effort will be made to read comments into the record, but some comments may not be read due to time limitations. Please also note that if you submit a written comment and do not specify that you would like this comment read into the record during the meeting, your comment will be forwarded to Board members for their consideration.

Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available on the CCWA internet web site, accessible at <https://www.ccwa.com>.

Eric Friedman
Chairman

Ed Andrisek
Vice Chairman

Ray A. Stokes
Executive Director

Brownstein Hyatt
Farber Schreck
General Counsel

Member Agencies

City of Buellton

Carpinteria Valley
Water District

City of Guadalupe

City of Santa Barbara

City of Santa Maria

Goleta Water District

Montecito Water District

Santa Ynez River Water
Conservation District,
Improvement District #1

Associate Member

La Cumbre Mutual
Water Company

I. Call to Order and Roll Call

II. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code section 54956.9(d) (1)

Name of case: Central Coast Water Authority, et al. v. Santa Barbara County
Flood Control and Water Conservation District, et al. (Case No. 21CV02432)

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code § 54956.9(d)(2)
Number of cases: 1

Agenda Item II, the Closed Session, is anticipated to take 20 minutes. The remainder of the Meeting will start no earlier than 9:20 am.

III. RETURN TO OPEN SESSION

IV. Public Comment – (Any member of the public may address the Committee relating to any matter within the Committee’s jurisdiction. Individual Speakers may be limited to five minutes; all speakers to a total of fifteen minutes.)

V. Election of Officers

VI. * Consent Calendar

A. Minutes of the March 10, 2022 Operating Committee Meeting
Staff Recommendation: Approve Consent Calendar.

VII. Executive Director’s Report

A. Operations Update
Staff Recommendation: Informational item only.

255 Industrial Way
Buellton, CA 93427
(805) 688-2292
Fax (805) 686-4700
www.ccwa.com

* Indicates attachment of document to agenda packet

Continued

- B. Water Supply Situation Report and 2022 Supplemental Water Purchase Program Update
Staff Recommendation: Informational item only.
- C. Planning for a Dry 2023 Water Year: Water Supply and Operational Challenges and Possible Mitigation Measures
Staff Recommendation: Informational item only.
- D. Warren Act Contract Update
Staff Recommendation: Informational item only.
- E. Alternative Discharge Point for State Water at the Lake Cachuma Penstock Facilities
Staff Recommendation: Informational item only.
- * F. Aquaterra Water Bank Proposal and Term Sheet
Staff Recommendation: Informational item only.
- * G. DWR Calendar Year 2023 Statement of Charges
Staff Recommendation: Informational item only.

VIII. Reports from Committee Members for Information Only

IX. Date of Next Regular Meeting: October 13, 2022

X. Adjournment

**MINUTES OF THE
CENTRAL COAST WATER AUTHORITY
OPERATING COMMITTEE**

March 10, 2022

The Operating Committee meeting was conducted pursuant to California Government Code Section 54953 subdivision (e), due to the Governor's proclaimed state of emergency and local officials' recommended "social distancing" measures in response to the COVID-19 pandemic. Committee members participated in this meeting by video call or telephone. Public Comment on agenda items also occurred telephonically.

Ms. Lisa Watkins, Board Secretary, confirmed that all Committee members could hear each other, had received a copy of the meeting agenda, and could hear the proceedings.

I. Call to Order and Roll Call

Mr. Garcia, Committee Chair, called the March 10, 2022, Central Coast Water Authority Operating Committee meeting held at 255 Industrial Way, Buellton, California, to order at 9:00 a.m.

Committee members present:

Paeter Garcia	-	Santa Ynez River Water Conservation District, ID#1
Ryan Drake	-	Goleta Water District
Rose Hess	-	City of Buellton
Robert McDonald	-	Carpinteria Valley Water District
Pernell Rush	-	Vandenberg SFB
Shad Springer	-	City of Santa Maria
Shannon Sweeney	-	City of Guadalupe
Dakota Corey	-	City of Santa Barbara
Nick Turner	-	Montecito Water District

Jose Acosta, Advisory Member for the City of Solvang was also present.

II. Closed Session

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Government Code section 54956.9(d) (1)
Name of case: Central Coast Water Authority, et al. v. Santa Barbara County Flood Control and Water Conservation District, et al. (Case No. 21CV02432)
- B. CLOSED SESSION: CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Government Code section 54956.8
Property: Warren Act Contract
Agency negotiator: Ray Stokes

III. Return to Open Session

The Committee reconvened to open session at 9:34 AM.

Ms. Hastings, CCWA General Counsel, announced there were no reportable actions as a result of closed session.

IV. Public Comment

There was no public comment.

V. Consent Calendar

A. Approve Minutes of the January 13, 2022 Operating Committee Meeting

Motion to approve the consent calendar was made by Mr. Springer, seconded by Mr. McDonald, and carried following a roll call vote with Committee Members Garcia, Hess, McDonald, Drake, Rush, Springer, Sweeney, and Turner in favor, Ms. Taylor abstaining, and none opposed.

VI. Executive Director's Report

A. Operations Update

John Brady, CCWA Deputy Director, reported on plant production, chemical costs, and totals pumped into Lake Cachuma and an explanation of how chemical costs are calculated to provide an estimate for the cost of water per AF for budgetary purposes.

CCWA is changing its weekly sample collection procedures, so that free ammonia will be measured in the field to shorten the time between collection and testing and improve sample analysis accuracy.

Mr. Brady also provided an overview of operations:

- An improved monitoring system has been purchased and established at the WTP laboratory.
- A chloramine booster station has been designed for Tank 5 by an outside consultant, and CCWA is reviewing the design approach to lower the cost and improve the design.
- The Process Logic Controller Equipment upgrade project is continuing, with CCWA staff planning the installation for winter shutdown in 2022.
- The WTP flocculation basin cross collector has been evaluated by the manufacturer, and after analysis will be replaced in the winter shutdown.
- Due to the lake level decline at Lake Cachuma, CCWA has installed a splash pad to help prevent erosion of the spillway apron and dam base. Additional measures, including sandbag diversion, are being implemented.
- CCWA has provided design to USBR for an extension of the discharge pipeline to bring the delivery point beyond the dam.
- CCWA has issued a Request for Bids for the Water Treatment Plant Heating, Ventilation and Air Conditioning System.
- CCWA and Municipal Water Quality Investigations staff coordinated a joint meeting with Regional Water Quality Control Board and Department of Drinking Water staff regarding permits for North Valley Recycled Water Project to discuss reuse of treated waste water for potable use.
- Provided support for the litigation work and negotiation work for the Warren Act Contract.
- Staff have updated CCWA's COVID-19 plans, provided all staff training and managed COVID 19 cases and close contacts.

- Discussion is taking place regarding vegetation clearing work Cal-Fire is planning at Tank 2. We are reviewing the scope and determining if there are any potential issues, especially with regard to erosion.

B. Water Supply Situation Report

Ray Stokes, CCWA Executive Director, reviewed the precipitation indices and noting that there has been virtually no precipitation since January 1, 2022, so the state is now below the historical average rainfall.

Snow water content is also well below average, and the temperature and precipitation outlook indicate precipitation chances are not expected to improve. Overall the state is in moderate to extreme drought in most areas.

Current reservoir storage conditions have recovered from the historic lows, but are still below average levels. DWR has indicated that there may be a reduction in the current 15% allocation. In response to a question, Mr. Stokes stated it is uncertain what the new allocation would be, as there are health and safety allocations that would need to be made and other factors can affect the final allocation.

San Luis Obispo County has expressed interest in an exchange of water treatment capacity for 1,000 AF of their Table A allocation, and those negotiations are ongoing.

C. 2022 Supplemental Water Purchase Program Update

Currently six CCWA participants have expressed an interest in the 2022 Supplemental Water Purchase Program, and four have executed participation agreements. Two potential purchase opportunities have been identified: Casitas Municipal Water District, and the State Water Contractors Dry Year Transfer Program (DYTP).

The DYTP is in the negotiation process with potential sellers, but it is expected that the demand will exceed quantity available. Both purchases are \$700/AF, but the DYTP will include carriage water losses, and the cost per AF may increase as negotiations proceed.

Mr. Stokes reviewed additional requirements for the DYTP, including a \$5/AF deposit and a participation agreement specific to the DYTP which would need to be executed before March 24, 2022. The \$5/AF deposit would be to cover the administrative costs of SWCs, and would be refunded if it is not expended.

Additional purchase opportunities include Mojave Water Agency and the Yuba Accord. The cost being considered in initial discussion for Mojave is the in the range of \$1,200 to \$1,400 AF. The cost for the Yuba Accord is still under negotiation.

D. CCWA FY 2022/23 Preliminary Budget

Ms. Dessi Mladenova, CCWA Controller, provided an overview of the preliminary budget, highlighting changes between the prior and current years' budgets. The

preliminary budget calls for total project participant payments of \$47.4 million compared to the FY 2021/22 budget of \$69.6 million, a \$22.2 million decrease. The preliminary FY 2022/23 Operating Expense Budget is \$9.9 million, a \$3.7 decrease from the FY 2021/22 budget, due largely to decreases in legal and utility expenses. Ms. Mladenova provided additional detail on certain budget amounts, including decrease in requested water deliveries from 31,007 AF in FY 2021/22 to 14,983 AF in FY 2022/23, the cost per acre foot calculations, and DWR fixed and variable charges.

Committee members were requested to provide any feedback on the preliminary budget prior to the March 24, 2022 Board of Directors meeting.

VII. Reports from Committee Members for Information Only

There were no reports from the Committee members.

VIII. Date of Next Regular Meeting:

July 10, 2022 is the date of the next Regular meeting. It is currently expected that the next regular meeting will be in person at CCWA's Buellton Administrative Office.

IX. Adjournment

The meeting was adjourned at 10:50 AM.

Respectfully submitted,

Elizabeth F. Watkins
Secretary to the Board



CENTRAL COAST WATER AUTHORITY

MEMORANDUM

July 7, 2022

TO: CCWA Operating Committee

FROM: Ray A. Stokes
Executive Director 

SUBJECT: Aquaterra Water Bank Proposal and Term Sheet

DISCUSSION

At its meeting on May 26, 2022, the CCWA Board of Directors received a presentation from representatives of the McMullin Area Groundwater Sustainability Agency (MAGSA) on the proposed Aquaterra Water Bank. The proposal and presentation outlined the concepts for the water bank which could be beneficial for CCWA and its participants in our efforts advance the goal of storing State water supplies when State water is not needed for current year demand, for use in later years when it is needed.

The MAGSA has provided the attached "Groundwater Banking Priority Phase Storage Subscription Agreement" which outlines the basic terms for potential participants in the water bank. Additionally, I have attached the presentation and related materials for the Aquaterra Water Bank for your information.

Matt Hurly, the General Manager for MAGSA, will be at the Operating Committee meeting to present the background information on the water bank and answer questions.

This information is being presented for information only. CCWA staff would like to return to this subject later in the fall of 2022 to determine if there is an interest in pursuing participation in the Aquaterra Water Bank either by CCWA as a whole or by individual CCWA project participants.

RAS

Attachments



Aquaterra Water Bank Concept

Water from multiple major water systems will be delivered to the Aquaterra Water Bank.

In wetter years, McMullin Area Groundwater Sustainability Agency (MAGSA) will schedule water delivery from outside water agencies for deposit into Aquaterra. Water will be recharged in basins and through landowner participation in on-farm recharge (OFR), improving local groundwater levels.

In drier years, MAGSA will work with partners to schedule extraction and return water based on subscribers' share of stored water and extraction capability.

Ongoing accounting will be maintained, reporting on amounts of water banked (recharged), withdrawn (pumped), or exchanged to other users. A minimum 10% leave-behind will account for losses and improve groundwater conditions.

Potential Partners

- ◆ State Water Project Contractors
- ◆ Central Valley Project Contractors
- ◆ Exchange Contractors
- ◆ Overlying landowners
- ◆ Kings River Water Users



Aquaterra Water Bank Potential

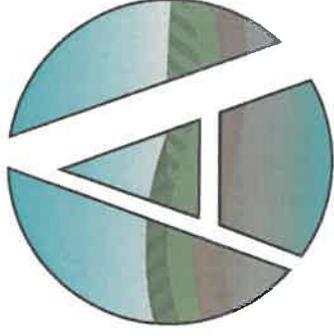
- ◆ 1.8 million acre-feet available groundwater storage capacity
- ◆ 208,000 acre-feet annual recharge capacity
- ◆ 770 cubic feet per second of new conveyance
- ◆ 146,000 acre-feet annual extraction capacity
- ◆ 480 cubic feet per second of recovery/extraction capacity
- ◆ Three conveyance connections to convey water to groundwater banking and on-farm recharge sites



MORE INFORMATION

Contact McMullin Area Groundwater Sustainability Agency (MAGSA) General Manager Matt Hurley at mhurley@mcnullinarea.org or (559) 515-3339.

aquaterrabank.org



Strategically located between the Kings and San Joaquin rivers in the Central San Joaquin Valley, the proposed Aquaterra Water Bank increases the resilience and flexibility of water suppliers across the State while improving sustainability of local groundwater resources.

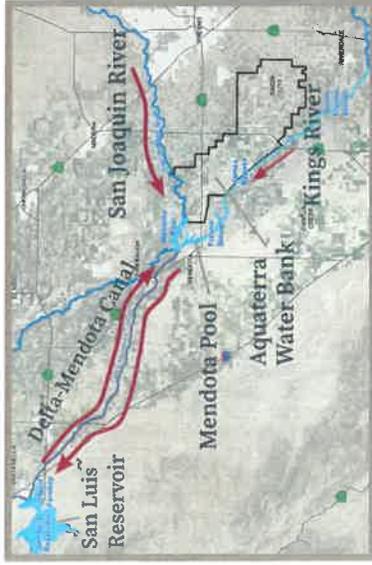


With connections to the State Water Project and Central Valley Project infrastructure, Aquaterra can capture, store, and manage available supplies and flood waters from multiple major water sources.

aquaterrabank.org



Aquaterra Water Bank Location



Between two rivers and with connections to the State Water Project and Central Valley Project infrastructure, the Aquaterra Water Bank is ideally located to be a strategic storage facility for users throughout the state.

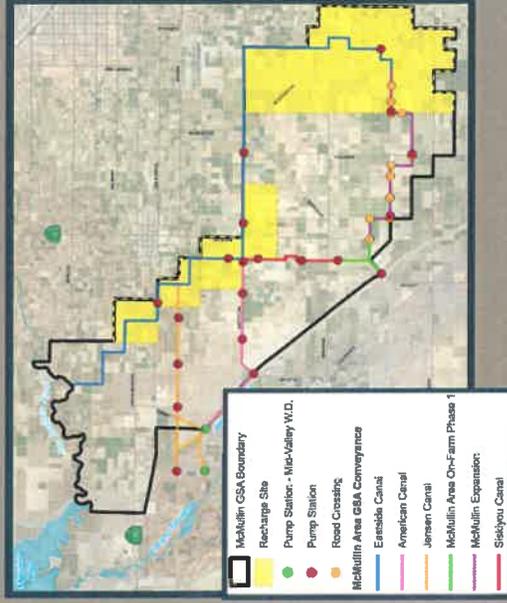
The location's natural conditions include suitable recharge soils, ample available groundwater storage volume, and groundwater quality that ideally suit the project for water capture and storage.

- ◆ 1.8 million acre-feet available storage capacity (close to San Luis Reservoir's 2 million acre-feet capacity)
- ◆ Minimal losses in recharge, migration, or uncontrolled pumping
- ◆ Highly porous soils support high infiltration rates and recovery ease
- ◆ Spreading and in-lieu recharge
- ◆ Three connections to convey water to and from groundwater banking and on-farm recharge sites



Aquaterra Water Bank System

The Aquaterra Water Bank proposes the expansion and development of conveyance and storage infrastructure to store water arriving at Mendota Pool.



KEY FACILITIES

- ◆ Pumping stations
- ◆ Canals
- ◆ Recharge sites
- ◆ Extraction wells

Two new pump diversions will be constructed at the Fresno Slough (hydraulically connected to the Mendota Pool). From the Mendota Pool, water will be delivered to new recharge facilities and spread onto croplands for recharge within MAGSA.



Aquaterra Water Sources

The Aquaterra Water Bank is ideally located to be a strategic storage facility for users throughout the state.

State Water Project

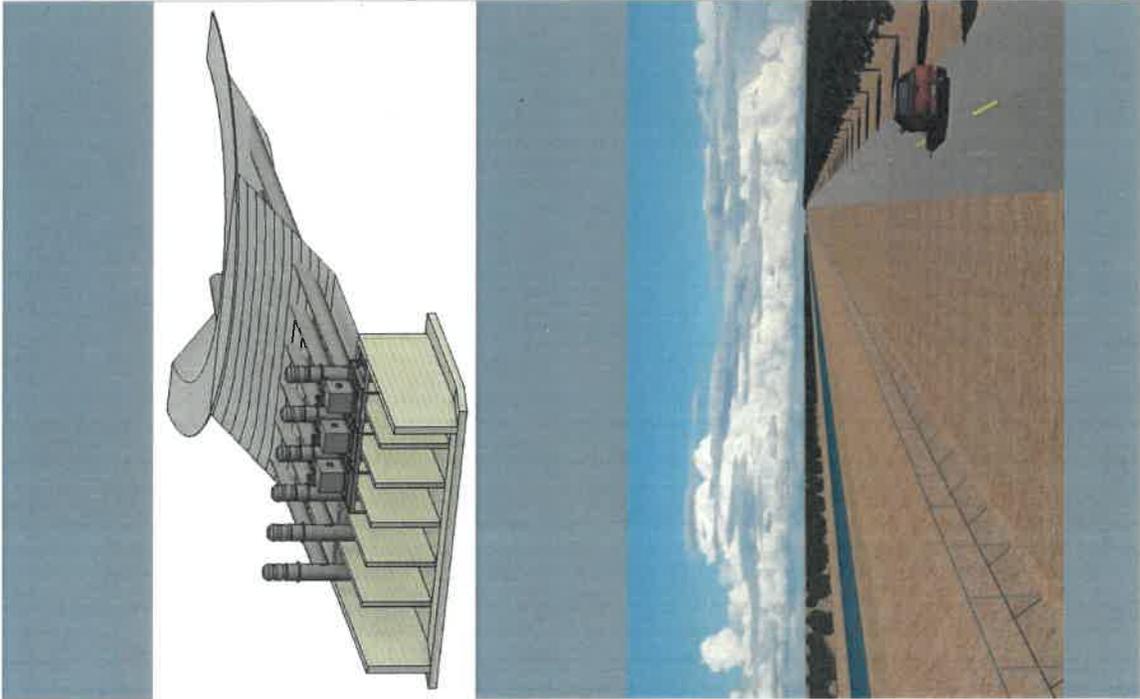
CA Aqueduct water at O'Neill Forebay below San Luis Reservoir will be delivered to the Mendota Pool via the Central Valley Project's Delta-Mendota Canal. This location has the benefits of requiring minimal initial Aqueduct pumping costs and avoids issues of use with downstream State Water Project facilities.

Central Valley Project

Central Valley Project (CVP) water supplies from Delta-Mendota Canal and San Luis Unit water users will be provided through available non-irrigation season canal capacity. CVP water supplies from the Friant Unit can be released down the San Joaquin River and recharged from the Mendota Pool. Although not part of the proposed plan, Aquaterra could also provide a location for water storage from the San Joaquin River Restoration program.

Local Projects

Kings River water users can take advantage of storage in Aquaterra Water Bank through use of the Fresno Slough in wetter years, or direct deliveries from local distribution systems.



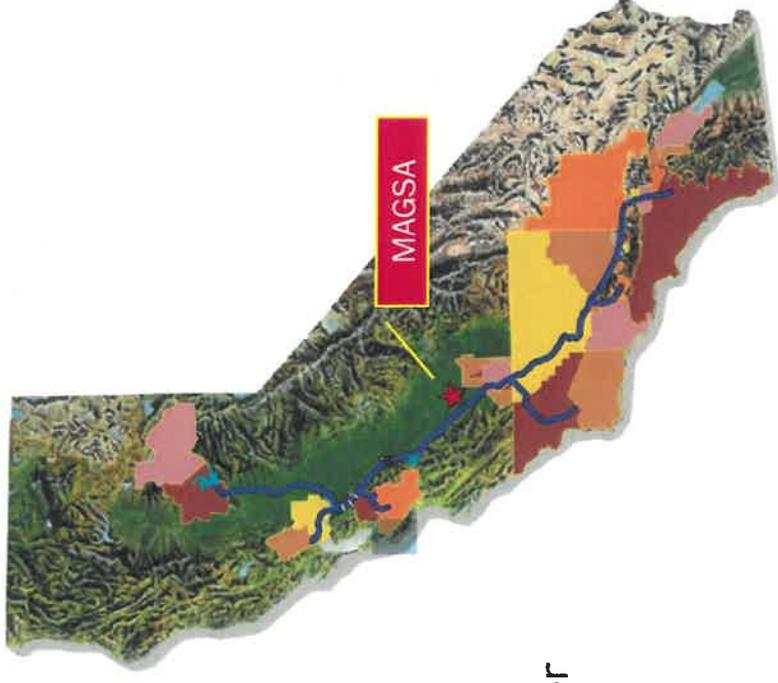
AQUATERRA

WATER BANK

MCMULLIN AREA GSA, FRESNO COUNTY

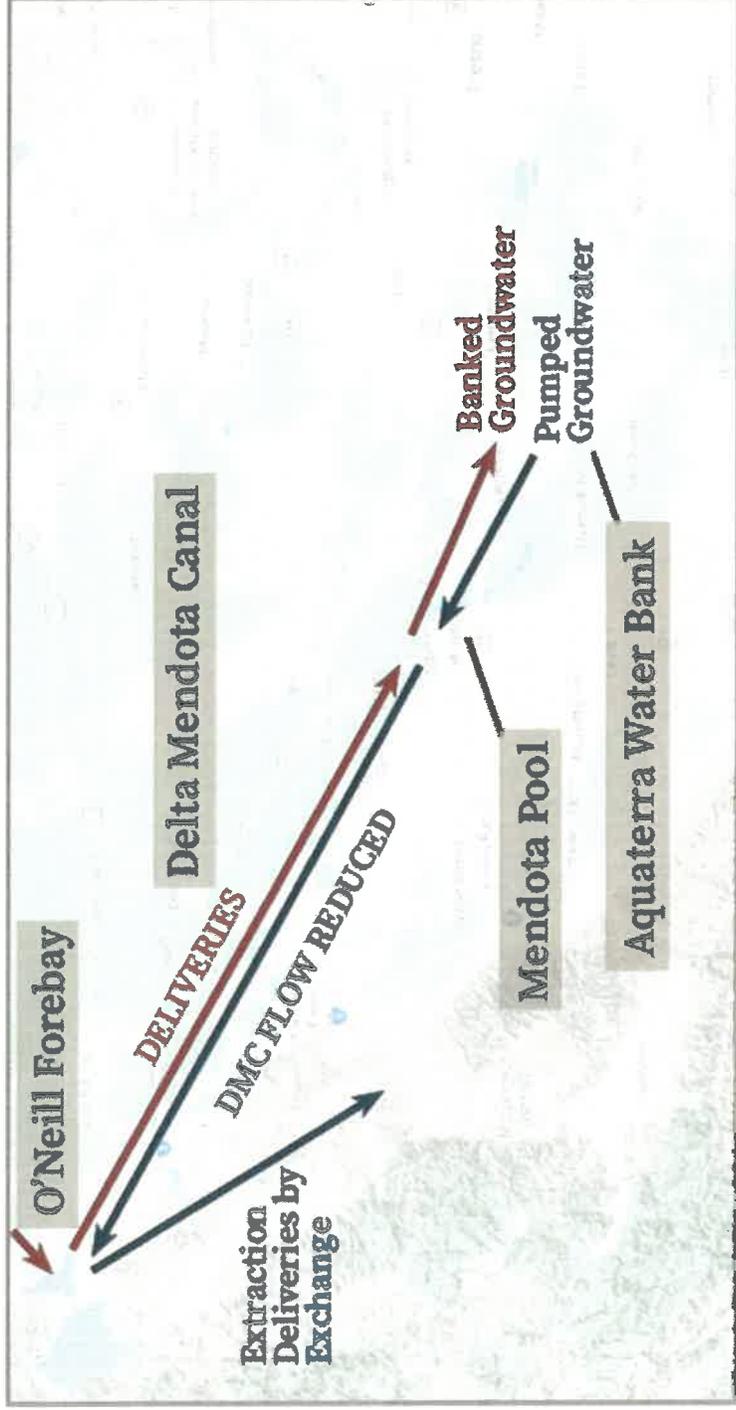
McMullin Area GSA (MAGSA)

- Formed in response to the passing of the Sustainable Groundwater Management Act (SGMA)
- Located in Fresno County, encompassing 120,635 acres
 - 83% permanent and field crops
 - 1.2% rural residential
 - Two ecological reserves
- MAGSA last developed area of Kings Subbasin
 - No Kings River water rights for surface irrigation
 - Agriculture developed based exclusively on groundwater
 - **1.8 Million acre-feet** of available groundwater storage in cone of depression created by local pumping





Delivery and Extraction Infrastructure



Aquaterra Water Bank Characteristics

High recharge rates, with ability to capture Article 21 Water

Upstream location on California Aqueduct

- Minimizes potential operational capacity limitations
- Reduced initial costs – Minimal initial pumping costs
- Reduced operational costs – Low energy costs
- Physical connection to the Mendota Pool

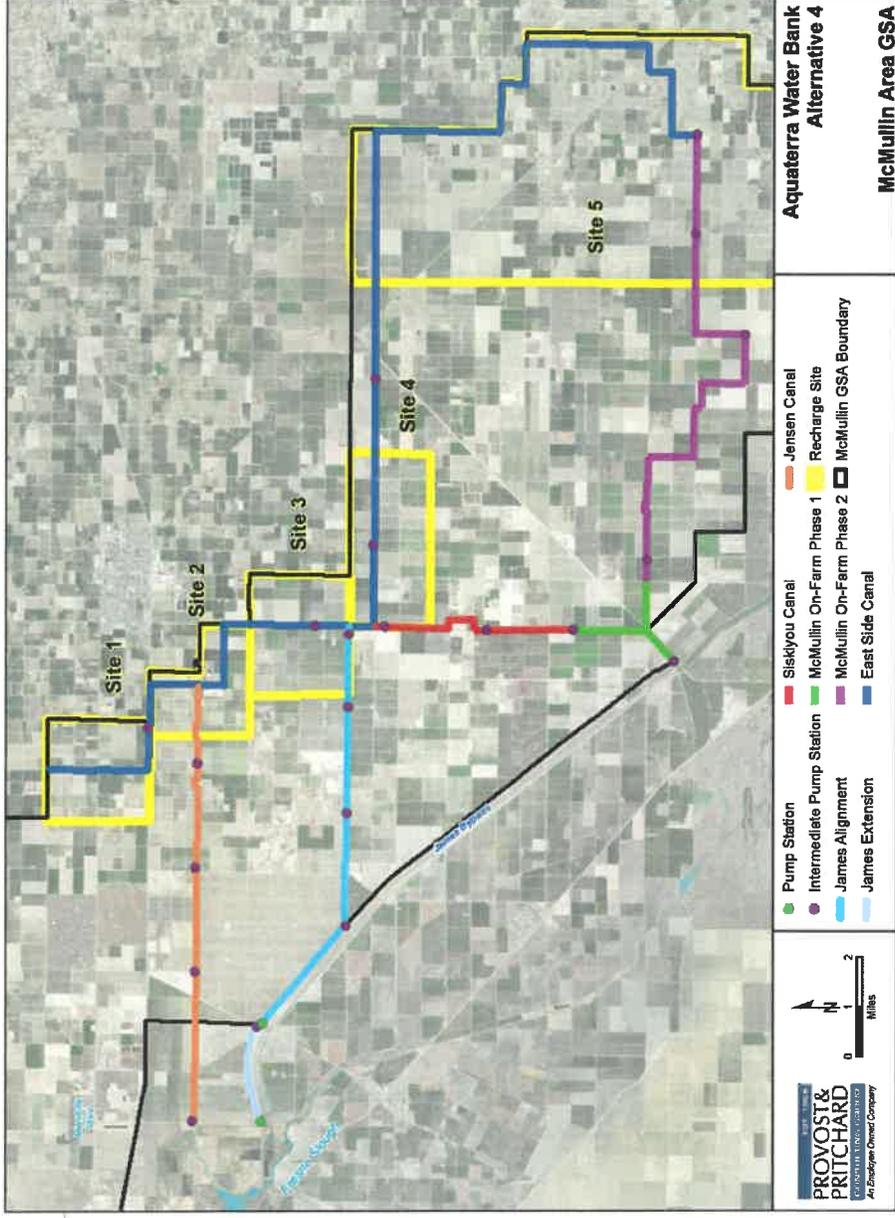
Firm Recovery Capability – Extractions exchanged with highest seniority

Delta water user



Project Scale

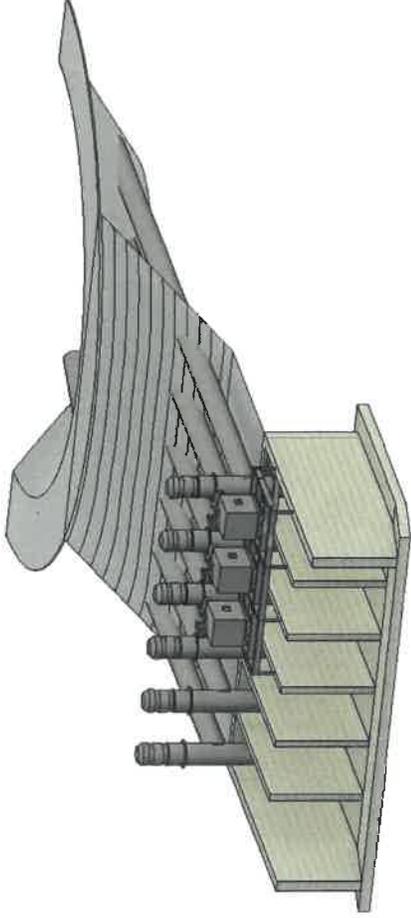
- 800,000 acre-foot groundwater storage capacity
- 208,000 acre-foot annual recharge capacity
- 770 cfs conveyance & spreading
- 146,000 acre-foot per year scheduled extraction capability
- 480 cfs recovery (extraction) capacity
- Two conveyance facilities for recharge & recovery



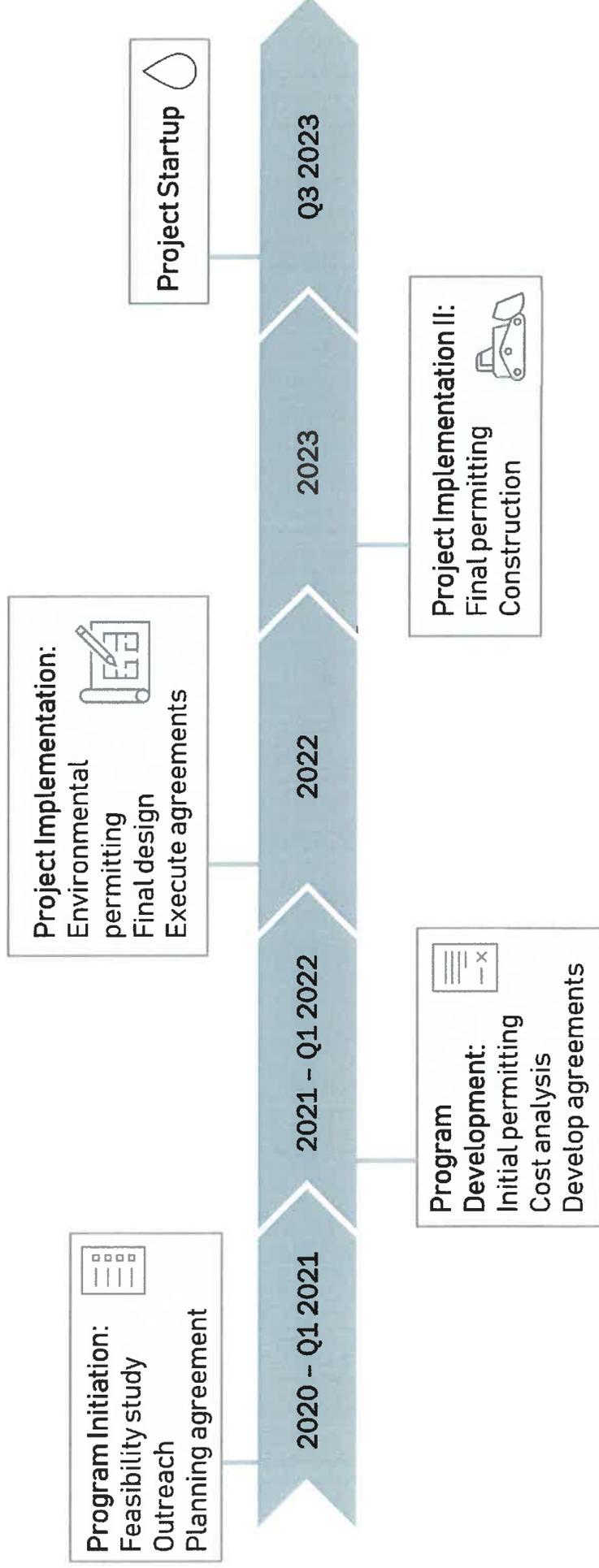
Aquaterra Water Bank Specifications

250 – 500 cfs conveyance canal capacity
3,900 acres of recharge basins
65 miles of bidirectional canals

88 recovery wells
25 pump stations
3 pump stations in Mendota Pool



Aquaterra Water Bank Status



QUESTIONS



AQUATERRA
WATER BANK



**GROUNDWATER BANKING PRIORITY PHASE STORAGE
SUBSCRIPTION AGREEMENT**

This Groundwater Banking Priority Phase Storage Subscription Agreement (“**Agreement**”) is entered into as of this ____ day of _____ 2022 between McMullin Area Groundwater Sustainability Agency (“**MAGSA**”) and _____ (“**Account Holder**”). MAGSA and Account Holder may also be referred to herein individually as a “**Party**” or collectively as “**Parties.**”

RECITALS

WHEREAS, MAGSA is a Groundwater Sustainability Agency (“**GSA**”) properly organized pursuant to the Sustainable Groundwater Management Act of 2014 (Water Code §§ 10720, et seq.) (“**SGMA**”);

WHEREAS, due to historical groundwater pumping in excess of the safe yield of the groundwater basin underlying MAGSA’s boundaries, estimated underutilized groundwater storage capacity in excess of one million eight hundred thousand (1,800,000) acre-feet has resulted;

WHEREAS, MAGSA has determined that the operation of water banking facilities will contribute to improved conditions of groundwater overdraft within its boundaries, and will assist in MAGSA’s efforts to enhance, protect, and sustainably manage the water resources within its boundaries pursuant to and consistent with SGMA;

WHEREAS, Account Holder seeks to participate in water banking efforts with MAGSA that will result in beneficial storage, recovery, and exchange opportunities for Account Holder within MAGSA;

WHEREAS, MAGSA intends to develop, construct, and operate groundwater banking facilities within its boundaries as described in **Exhibit A** attached hereto (“**Project**” or “**Aquaterra**”);

WHEREAS, in order to generate capital needed to conduct the requisite environmental review, to complete permitting processes, to obtain necessary fee title ownership to land and/or right-of-way easements, and to develop and construct the Project facilities, MAGSA proposes an investment opportunity consisting of priority access to a portion of the total storage space, for direct or in-lieu recharge and/or access to a broad range of exchange possibilities pursuant to the terms set forth below;

WHEREAS, Account Holder seeks to invest in the development and construction of the Project in exchange for the opportunity to obtain senior priority storage capacity and appurtenant rights upon the construction and operation of the Project.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Definitions.

- (a) Anticipated Total Project Storage: MAGSA anticipates that the total water storage available within the Project will be one million eight hundred thousand (1,800,000) acre feet.
- (b) Priority Phase Investor: Those parties that invest in the first eight hundred thousand (800,000) acre-feet of reserved storage space within the Project.
- (c) Priority Phase Storage: The entire first eight hundred thousand (800,000) acre-feet of reserved storage space within the Project, to which each Priority Phase Investor shall share Priority Access.
- (d) Priority Access: The seniority of access to deposits (“puts”) or withdrawals (“takes”) associated with Priority Phase Storage ahead of later phase investors, which shall be in proportion to each Priority Phase Investor’s share of the Phase One Priority Storage in acre feet.
- (e) Subscription Fee: The total amount due to MAGSA to access the Priority Phase Storage as provided herein, which must be paid in five (5) non-refundable installment payments, as detailed in Paragraph 3 below.

2. Purchase of Phase One Priority Storage.

In consideration of the terms and conditions contained in this Agreement and upon receipt of **all** Subscription Fees, as provided herein, MAGSA shall grant and convey to Account Holder the perpetual right to access _____ acre-feet (the “**Subscribed Quantity**”) of Priority Phase Storage in the Project pursuant to the terms provided herein.

3. Non-Refundable Subscription Fees and Payment Schedule.

It is MAGSA’s intention to construct the necessary capital improvements and thereafter operate the Project on a cash basis as compared to a bonded or financed basis. Therefore, each Priority Phase Investor shall be responsible for the determination as to what method they might choose to utilize for their required cash contributions set forth below. The aforementioned notwithstanding, MAGSA will do what it can to accommodate minor scheduling and other potentially variable aspects associated with scheduled payments from Priority Phase Investors. As of the date of this Agreement, the total Subscription Fee is estimated to be Nine Hundred Dollars (\$900.00) per acre-foot for Priority Phase Storage (“**Estimated Subscription Fee**”). This amount accounts for the estimated cost of construction of the capital improvements and all related non-construction related expenses with a twenty percent (20%) contingency factor. The actual total Subscription Fee shall be determined at Project completion and shall be based upon the cost to build and place the Project into full operational mode. As such, determination of the final total Subscription Fee amount shall be ongoing. MAGSA shall provide written updates on the estimated total Subscription Fee to Priority Phase Investors as provided in Paragraph 4, below, but in no event shall the total Subscription Fee payable by Account Holder exceed one hundred and twenty five percent (125%) of the Estimated Subscription Fee as identified herein.

To purchase the right to access Priority Phase Storage, Account Holder shall pay the total Subscription Fee for its Subscribed Quantity pursuant to the following schedule:

- (a) First Payment: The first payment shall be equal to \$25.00 per acre-foot of Subscribed Quantity, shall serve as a down payment placeholder for Account Holder's Investment Account, and shall be delivered to MAGSA, as provided herein, on or before March 1, 2023.
- (b) Second Payment: The second payment shall be twenty percent (20%) of the outstanding balance of the total Subscription Fee, or an estimated \$175.00 per acre-foot of Subscribed Quantity, and shall be delivered to MAGSA, as provided herein, no later than March 1, 2024.
- (c) Third Payment: The third payment shall be thirty percent (30%) of the remaining balance of the total Subscription Fee, or an estimated \$210.00 per acre-foot of Subscribed Quantity, and shall be delivered to MAGSA, as provided herein, no later than March 1, 2025.
- (d) Fourth Payment: The fourth payment shall be fifty percent (50%) of the remaining balance of the total Subscription Fee, or an estimated \$245.00 per acre-foot of Subscribed Quantity, and shall be delivered to MAGSA, as provided herein, no later than March 1, 2026.
- (e) Final Payment: The final payment shall be the remaining balance of the total Subscription Fee, as adjusted for project construction closeout, and shall be delivered to MAGSA, as provided herein, no later than December 31, 2026.

4. **Notice of Change in Cost**

In order to calculate the amount due for each of the Subscription Fee payments, as set forth above, MAGSA shall provide Account Holder notice, as provided herein, of any change in the total Subscription Fee no later than one hundred twenty (120) days in advance of the payment due dates set forth above. The actual final amount of the per acre foot Subscription Fee shall be determined by actual cost true-up prior to the final installment.

5. **Election Not to Complete Purchase.**

In the event the Account Holder elects at any point not to complete the transaction contemplated herein, any amounts paid to MAGSA pursuant to this Agreement at the time of Account Holder's election not to complete the transaction shall **not** be refunded to Account Holder in whole or in part.

6. **Option to Assign.** Account Holder may, subject to prior approval by MAGSA, which approval will not be unreasonably withheld, assign its rights and responsibilities under this Agreement upon the execution by Account Holder's duly authorized representative and execution by assignee of a Subscription Agreement, in a form similar to this Agreement, modified to reflect the withdrawing Account Holder's position at the time of withdrawal and assignment and acknowledging any and all provisions contained herein as if executed at the origination of the Project.

7. **Covenants of the Parties.**

(a) **Project Status Updates.**

MAGSA shall provide Account Holder quarterly written reports on the status of the construction of the Project, including periodic accounting updates and budget comparisons.

(b) **Notice of Readiness to Accept Water Deposits (“Puts”).**

MAGSA shall notify Account Holder at least thirty (30) days prior to the anticipated partial completion of the Project facilities sufficient to allow Account Holder to make initial water deposits into the water bank (“puts”).

(c) **Notice of Readiness to Accomplish Water Withdrawals (“Takes”).**

MAGSA shall notify Account Holder at least thirty (30) days prior to the anticipated partial completion of the Project facilities sufficient to make initial withdrawals of water from storage (“takes”).

(d) **Operations and Maintenance of the Project Post-Construction.**

Following execution of this Agreement, and upon the “Activating Subscription for Priority Phase Storage” (Payment of the First Installment Payment by Priority Phase Investors holding more than fifty (50%) percent of the Priority Storage), MAGSA shall convene a representative committee of all Priority Phase Storage Account Holders for the purpose of conferring and making recommendations to the MAGSA Board of Directors of anticipated best management practices associated with ongoing Project operations and maintenance, including suggested rules and regulations, fee schedules and cost apportionment formulas for equitable access to and participation in the Project. Thereafter, MAGSA shall prepare and circulate for consideration and concurrence of the Priority Phase Storage Account Holders a Standard Operations and Maintenance Manual, which will serve as the initial Standard Operating Procedures for the Project.

(e) **Access to Project.**

MAGSA shall provide Account Holder reasonable access to the Project and Project facilities.

(f) **Mutual Indemnification, Defense, Hold Harmless.**

The Parties agree to indemnify, defend, and hold the other and its respective officers, directors, shareholders, partners, managers, members, trustees, beneficiaries, employees, contractors, licensees, invitees, representatives, agents, successors, and assigns harmless from and against any and all claims, actions, causes of action, demands, damages, costs, liabilities, losses, judgments, expenses or costs of any kind or nature whatsoever (including, without limitation, attorneys’ fees) by reason of property damage, death, or injury to persons arising from or relating to the construction, improvement, installation, access to, use, inspection, maintenance, repair, or modification of the Project facilities, except to the extent

that such death, injury, or property damage arises from the gross negligence or willful misconduct.

(g) Evaluation of Risk.

Account Holder is managed by and/or staffed with persons who are knowledgeable, sophisticated, and experienced in business and financial matters; has access to information sufficient to conduct appropriate due diligence in relation to this Agreement; is capable of evaluating the merits and risks involved in this Agreement, is prepared to timely provide for scheduled payments, and is able to bear the risk of this Agreement, including a complete loss of its investment.

8. Notices.

Any notice, consent, approval or request for consent required or permitted to be given under this Agreement shall be given in writing and shall be effective: (i) if personally delivered, upon delivery or the recipient's refusal to accept such delivery; or (ii) if mailed, five (5) days after mailing, by United States registered or certified mail, postage pre-paid, return receipt requested, to the applicable address set forth below:

If to MAGSA:

McMullin Area Groundwater Sustainability Agency
275 S. Madera Avenue, Suite 301
Kerman, CA 93630

Attn: General Manager

If to the Account Holder:

Name
Address 1
Address 2

Attn:

The foregoing addresses and addressees may be changed by giving written notice of such change to the other Party in the manner provided for in this section.

9. Partial Invalidity/Severability.

If any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

10. Breach.

In the event of an alleged breach of this Agreement, the Party asserting the breach shall promptly advise the other Party of the alleged breach and provide, in writing, a notice to cure within seven (7) business days of the delivery of the written notice. Should the alleged breaching Party dispute

the alleged breach, they must, within that same seven (7) business day period, advise the other Party of the dispute and the basis for their contention.

Should the Party disagree as to whether a breach has occurred, and the alleged breach remains after a period of seven (7) business days, the Parties agree to engage in good-faith negotiations as set forth below.

However, in the event Account Holder breaches the Agreement in a manner that constitutes a violation of the terms of any State, County, or other permit or license by which MAGSA is bound, and Account Holder fails to cure such breach within seven (7) business days of the notice, upon a showing of documentation from a government entity confirming the nature of the violation, MAGSA may immediately terminate this Agreement.

11. No Refund for Delay and/or Failure to Complete.

The Parties acknowledge that the Project is still in the design phase and completing the Project will require the acquisition of real property and/or easements, the completion of environmental review, and obtaining various permits and approvals, as well as funding sufficient to complete the Project. The Parties further understand and acknowledge that these processes and any number of unforeseen issues could delay or prevent completion of the Project in whole or in part. In the event that the Project is delayed or that MAGSA is unable to complete the Project, in whole or in part, whether due to inability to obtain approvals, real property, easements, and/or any other reason, Account Holder shall not be entitled to a refund of any amounts paid.

12. Impact to Water Supply/Storage.

The Parties acknowledge that the Project is subject to changes as a result of climate and/or geologic activities. As a result, the Parties agree that MAGSA provides no assurance that the capacity, conveyance rates and the priority space will not change from that which is understood at this time. As a result, restrictions may be imposed on the Account Holder's use of the Project, including, but not limited to, limits or restrictions on: allowable recharge rates, allowable recovery rates, and/or the time between recharge and recovery.

13. Negotiation, Mediation, and Mandatory Binding Arbitration.

The Parties agree that, should any controversy or claim arise out of or in relation to this Agreement, including any alleged breach of the Agreement, the Parties shall promptly make good faith efforts to negotiate a written voluntary resolution of the matter directly between themselves.

With the exception of the limited circumstance that allows for immediate termination set forth above, if any dispute that relates to this Agreement remains unsettled for fifteen (15) days after notification that a dispute exists, the Parties shall immediately and jointly retain a mutually- agreed upon neutral mediator and participate in confidential mediation to continue attempting to work out a written voluntary settlement. The costs of the mediation shall be born equally by the Parties. If any Party(ies) files any legal or administrative action to which this clause applies, without first having attempted to resolve the dispute through neutral mediation, then that filing Party(ies) shall be responsible for all legal fees and costs, including reasonable attorneys' fees, of the other Party(ies), regardless of the outcome of the case.

Should mediation efforts fail, any controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by binding arbitration administered by one neutral, agreed upon

by the Parties, from the American Arbitration Association, JAMS, or similar organization, under their Commercial Arbitration Rules. Any such arbitration shall be conducted in Fresno County and judgment on the award rendered may be entered in any court having jurisdiction thereof.

14. **Binding Effect.**

This Agreement and all covenants and restrictions contained herein shall, to the fullest extent permitted by law and equity and without regard to technical classifications or designations, be binding upon and inure to the benefit of the Parties hereto.

15. **Governing Law.**

This Agreement shall be governed and construed in accordance with the laws of the State of California.

16. **Attorneys' Fees.**

In the event of any controversy, claim or dispute relating to or arising out of this Agreement, except as specifically set forth within paragraph 13, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses including, without limitation, attorneys' fees.

17. **Entire Agreement.**

This Agreement, including the recitals and **Exhibits A** through ___ attached hereto, all of which are incorporated herein by this reference, constitutes the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the Parties concerning the subject matter of this Agreement and supersede any and all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement.

18. **Amendments.**

This Agreement may be amended, modified or supplemented only by a written document executed by all of the parties hereto (or their successors-in-title).

19. **Assignments.**

Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the Parties hereto (whether by operation of law or otherwise) without the prior written consent of the other Party. Upon an assignment pursuant to this provision, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties, which shall include any agreed-upon successors and assigns.

20. **No Third-Party Beneficiaries.**

This Agreement is only among and for the benefit of the Parties hereto and their successors-in-title. No other person or entity or property shall be entitled to rely hereon, receive any benefit from

this Agreement or enforce any provision of this Agreement against any other Party to this Agreement.

21. **Counterparts.**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS THEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

**EXHIBIT “A” TO GROUNDWATER BANKING PRIORITY PHASE STORAGE
SUBSCRIPTION AGREEMENT**

The overall Project (hereinafter “Aquaterra”) includes construction and operation of an approximately 146,000-acre-foot per year dry-year return water bank. During wet year operations, up to 208,000 acre-feet of water could be recharged. There is approximately 1.8 million acre-feet of available storage under MAGSA’s boundaries in the unconfined aquifer above the E-Clay (Corcoran Clay). The Project as it specifically relates to Priority Phase Storage, includes the following elements:

- 1) Approximately 4,000 acres of new dedicated recharge basins,
- 2) A well field of up to 90 dedicated recovery wells located generally within the area of the recharge basins,
- 3) Up to three new lift pump stations in, or within the vicinity of, the Mendota Pool,
- 4) Approximately 70 miles of bi-directional high capacity conveyance canals,
- 5) Approximately twenty five (25) canal lift pumping stations with individual flow top-end capacities between 300 and 500 cubic feet per second,
- 6) Federal Acknowledgement as a Groundwater Bank to accommodate storage and return, as well as exchange, of federal contract water supply, and
- 8) The creation of a Groundwater Monitoring Committee to assist and advise MAGSA in establishment and oversight of on-going Standard Operations policies and procedures.

Location: The Aquaterra facilities would be located west of SR-99 and east of the James Bypass on the north fork of the Kings River within an agricultural region of the mid-northern portion of Fresno County, CA contained within the boundaries of MAGSA.

Operation and Maintenance:

The Groundwater Monitoring Committee will assist and advise in ensuring that operation of Aquaterra will not adversely affect the groundwater pumping conditions of any property owners in close proximity to the Aquaterra facilities.

MAGSA anticipates utilization of Supervisory Control and Data Acquisition (“SCADA”) or other telemetry equipment and full metering that would allow MAGSA, if it so desires, to remotely operate and monitor Aquaterra well and pump facilities. Occasionally, service employees may be required to be on-site for scheduled, preventive maintenance or unscheduled service. Site maintenance is anticipated to include levee maintenance, weed abatement, trash removal, periodic sediment removal and water-control structure adjustments and maintenance.

Construction:

Construction activity for Aquaterra would commence in late 2022 or early 2023, with recharge basin site preparation and grading and construction of conveyance canals. Construction of recharge basin infrastructure, pump stations and conveyance canal construction is expected to begin in 2023 and will be ongoing until fully complete. Construction of the conveyance canals and recharge basins would continue into 2025. Recovery well and pipeline construction is anticipated to begin in 2024 and continue into 2026.