



WHEELER RIDGE-MARICOPA WATER STORAGE DISTRICT

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October 11, 2017

By email ccreel@kcwa.com

Mr. Curtis Creel, General Manager
Kern County Water Agency
Bakersfield, CA

Subject: Participation of District Growers in California Water Fix (CWF)

Dear Curtis:

In August, the District conducted a series of six grower workshops on the subject matter and solicited non-binding Letters of Intent (LOI) from growers. At its September 13, 2017 meeting, the Board of Directors considered the LOIs or their equivalent. Based on the LOIs, it appears District growers would participate in the CWF at the level shown at (F) below.

Description	Number of growers	Requested (a)	Equivalent Table A Amount (b)
Contract growers	19	6,997 acre-feet	58,308 acre-feet
Small non-contract growers (c)	7	1,000 acre-feet	8,335 acre-feet
Total CWF Participation	26	7,997 acre-feet	66,643 acre-feet (F)
Opt-Out growers (d)	41		143,595 acre-feet
Total	67 growers		210,238 acre-feet (e)
District Table A Amount			197,088 acre-feet

- (a) Requested acre-feet was made for "wet water" i.e. the average annual incremental CWF water supply. This was based on 481,250 acre-feet of average annual Table A allocation available to the SWP. This was derived from a 1,000,000 acre-feet CWF average annual supply (less 125,000 acre-feet of Article 21 water) allocated 55% to the State Water Project.
- (b) Based on 0.12 acre-feet of incremental CWF average annual yield (excluding Article 21 water) per acre-foot of Table A amount.
- (c) Three additional growers submitted participation forms, but it is unclear if the locations can be made proximate to the District delivery system.
- (d) Several growers indicated there was not sufficient certainty in the current CWF information to make an affirmative decision to opt-in or opt-out. This was interpreted as these growers would not sign a water service contract based on current CWF information.
- (e) This total of opt-in and opt-out Table A amount is higher than the District Table A amount because a few growers decided to opt-in at greater than their proportionate share.
- (F) This is the best estimate of grower participation at this time. Several of the Opt-Out growers are interested in the CWF if the uncertainties and high costs could be reduced.**

The indicated participation is about 1/3 of the District's Table A and number of growers. **However, 2/3 of growers have concluded either that the CWF is too expensive for their agricultural operations, or that the uncertainties in yield, cost and assurances make the CWF too risky for investment. This makes item 2. below a pre-condition for participation.**

The proposed participation comes with the following general conditions.

1. The indicated participation from growers was non-binding, but made in good faith.
2. Formal agreements to opt-out of CWF costs that are acceptable to the District must be approved in 2017 to ensure that growers, for whom the CWF costs are not affordable or too risky, and therefore must opt-out of being billed for CWF costs and benefits in order to avoid bankruptcy, can do so.
3. DWR must indicate in writing that it will separately identify CWF costs on the Statement of Charges, as the District must pass through CWF costs only to those growers willing to pay those costs, and not to growers who cannot afford them.
4. The District and KCWA agree that CWF Participation may decrease if the 0.12 ratio of CWF Incremental Yield to SWP Table A Amount Table A decreases; this affects the Table A level of participation described above.
5. Participation is subject to:
 - a. completion of a mutually agreeable CWF Amendment to the District/KCWA contract for SWP water; and
 - b. execution of water service contract agreements between the District and growers participating in the CWF.
6. KCWA and DWR agree that growers can transfer CWF incremental yield and costs at a future time to willing parties, at prices mutually agreeable to the growers and willing parties, anywhere in the State Water Project place of use. This is required if economic circumstances change e.g. in the event that crop prices or other on-farm economic factors make the CWF no longer affordable to said growers.
7. KCWA and DWR agree that the effective term for agreements in 2. and 6. above shall be any multi-year term up to perpetuity agreeable between the opt-in/opt-out or transfer parties.
8. An agreement is needed to preserve the ability of Kern groundwater banking projects to place water into the California Aqueduct under CWF improved ambient Aqueduct water quality conditions. (This is the same as item 11 in the *Proposals* attached.)

On June 30, 2017, the District provided that certain "*Proposals to Increase CWF Participation and Protect Farms from Bankruptcy - June 30, 2017*" to KCWA (attached). While some progress has been made on some of the elements in the Proposals, participation would increase if these Proposals were more fully implemented, and the District continues to view these Proposals as important for CWF participation.

Many growers submitted comments with their LOIs. The District hereby conveys those comments since they come from growers who would directly pay for, or opt-out of paying for, CWF costs. For some opt-in growers, their participation intent is conditional as described in the comments. Some comments indicated a willingness for additional participation from opt-out growers subject to conditions.

The District hereby expresses its appreciation to the Kern County Water Agency for its herculean efforts to make the CWF a viable water supply project for growers in Kern County who produce food for residents of California, the United States, and the world. It is unfortunate the State of California has not been able to develop this project to be affordable for most growers in order to preserve and enhance the contributions of growers to a safe and reliable food supply, jobs and economic opportunity, tax revenues, and the general benefit of the California economy.

Sincerely,


Robert J. Kunde
Engineer-Manager

Attachments
(Filename \\WRM-DC-01\Users\rkunde\A\2017\WaterFix\8.5c LOI_Letter_toKCWA_Final.wpd)

Wheeler Ridge-Maricopa Water Storage District
Grower Comments on Participation in the California Water Fix
October 11, 2017

These comments were provided as part of Letters of Intent.

Five large opt-out growers representing about 89,000 AF of Table A Amount indicated they would more favorably consider participation in CWF if:

1. *use of the tunnels for non-Project water conforms to current Article 12f and Article 55 wheeling rules, and the District and KCWA allow access to such capacity by growers under a "no-harm" condition;*
2. *CWF water is transferable by a grower to other agencies within the SWP including Member Units and other State Water Contractors without interference from the District, KCWA or DWR;*
3. *the District allows growers to maintain individual accounts in banking projects, and place Article 21 water in such accounts;*
4. *the District allows banking of CWF water outside the District for future delivery into the District;*
5. *to mitigate the risk of low commodity prices for several years, the District and KCWA allow growers to make CWF water leases to any party with a profit margin; there is a high likelihood of this need at some point; and*
6. *Cost of water generated by CWF are more equitably distributed among the M&I and agricultural users, and mechanisms are established to included CWF in the more efficient allocation of water vis-a-vis the Central Valley and other parts of the state.*

An opt-in grower conditioned their participation as *subject to renegotiation of cost allocation to farmers because the value of water for agriculture is lower than the value of water for municipal purposes.*

An opt-out grower stated that, in addition to items 2. and 5. above, he would reconsider participation after:

1. *SWRCB approval of the Change in Point of Diversion with a defined set of guidelines regarding allowable pumping quantities, and*
2. *Regulations regarding what non-participant liabilities may be if a participant defaults on their obligation.*

Two opt-out growers stated *water costs for agriculture must be lower.*

One opt-in grower stated *We hope the project becomes affordable as the process moves forward.*

One opt-in grower stated *My final level of participation will be predicated on the end result of assurance that I can foresee coming from the CWF and the level to which my original SWP contract is honored.*

One opt-out grower stated *CWF's costs and restrictions are disproportionately falling on the agricultural community, so much so that the ultimate cost of the water is simply unaffordable. Furthermore, several key informational items remain unresolved [preventing] an informed decision.*

Three opt-out growers stated [consensus view] *Given the uncertainties in cost and yield, a response on participation at this time is simply not possible.*

Wheeler Ridge-Maricopa Water Storage District
Proposals to Increase CWF Participation and Protect Farms from Bankruptcy
June 30, 2017

1. **Opt Out.** A fully developed opt-out provision is needed whereby it is possible to release the CWF marginal water, accompanied by all the associated costs, to a willing buyer.
2. **Allocation to Non-Participants.** A water supply allocation procedure is needed to protect non-participants. The procedure should align the interests of participants and non-participants so DWR can maximize SWP yield rather than act as judge and jury on who gets how much.
3. **Article 21 Water.** Shall be available at a reasonable price to opt-out parties on a second priority basis after opt-in participants.
4. **Capitalized Interest During Construction.** Participants shall have the option to defer capital financing costs during the construction period.
5. **Interest Rates.** WIFIA, WILA or similar programs shall be utilized to obtain favorable interest rates since such rates have a significant effect on affordability.
6. **Water Management Flexibility.** Water districts need greater water management flexibility to utilize all water management tools not expressly prohibited by the Water Supply Contracts (i.e., multi-year sales between contractors, open limits on return ratios for exchanges, and similar). This flexibility is needed by both participants and non-participants.
7. **Staging of Decisions and Financing.** It would be preferred to stage financing and participation commitments to coincide with key decisions effecting benefits of CWF (i.e., SWRCB permit; final design/cost estimate).
8. **Alternate Delivery.** As a cost risk mitigation measure, legal authority should be obtained for the construction JPA to use design-build or other alternatives to design-bid-build.
9. **Yield.** The estimated CWF yield should be updated to reflect the new Biological Opinions.
10. **Fish Friendly Diversions.** Provision is needed to allow construction of the Fish Friendly Diversions and the associated proportional yield.
11. **Kern Banking Projects.** An agreement is needed to preserve the ability of these projects to place water into the California Aqueduct under CWF improved ambient Aqueduct water quality conditions.

(Filename \\WRM-DC-01\Users\rkunde\A\2017\WaterFix\8.5c LOI_Letter_toKCWA_Final.wpd)