



January 25, 2021

VIA ELECTRONIC MAIL

Tom McCarthy, General Manager
Kern County Water Agency
Email: tmccarthy@kcwa.com

Re: Request for Tolling Agreement regarding the Final Environmental Impact Report for the Kern Fan Groundwater Storage Project

Dear Mr. McCarthy:

We are writing in response to the Kern County Water Agency's (KCWA) request for an agreement tolling the statute of limitations on filing a petition challenging the Groundwater Banking Joint Powers Authority's (GBJPA) Environmental Impact Report (EIR) for its Kern Fan Groundwater Storage Project (Project). In short, the GBJPA declines KCWA's request at this time because we believe KCWA's continued and required involvement with the Project's development will provide KCWA with various opportunities to ensure that its contractual and policy concerns are addressed.

As background, KCWA submitted a comment letter to the GBJPA on November 30, 2020, regarding the Draft EIR for the Project. The issues raised in KCWA's comment letter were reviewed by the GBJPA and a response to comments was provided in the Final Environmental Impact Report (FEIR). It is our understanding, based upon our recent conversations with you, that KCWA remains concerned with two aspects of the project: (1) The final location of the turnout to be constructed in the California Aqueduct; and (2) Potential issues surrounding Article 21 allocations. Following is an overview on each of these two issues. We hope that this letter helps to alleviate KCWA concerns and that KCWA will forego filing litigation.

- Turnout Location:

Staff from the GBJPA's member entities (Rosedale-Rio Bravo Water Storage District and Irvine Ranch Water District) have been working with KCWA staff to ensure that the appropriate hydraulic analysis is performed with respect to the definitive location of a Project turnout from the California Aqueduct. The primary purpose of these efforts has been to ensure that the Project does not cause any impacts to other turnouts within the designated reach of the California Aqueduct. Provided as Attachment 1 is a summary of our coordination with KCWA regarding the development of the Project, including the location of the turnout. A detailed 3-dimensional hydraulic model has been prepared and applied under the direction of the GBJPA and KCWA staff. The GBJPA has stated multiple times that it is committed to a turnout location that has no impact on other turnouts within the reach where it is to be located. We have also worked with KCWA staff and the California Department of Water Resources (DWR) on other detailed hydraulic modeling pertaining to existing subsidence and the location of the Project turnout. Ultimately, KCWA will be a signatory to the turnout and point of delivery agreement(s) with DWR for the Kern Fan Project, thereby ensuring continued oversight by KCWA through the further development of the Project turnout. Accordingly, the GBJPA will be required to address KCWA's concerns prior to the execution of Project agreements governing the location of the turnout.

- Allocation of Article 21:

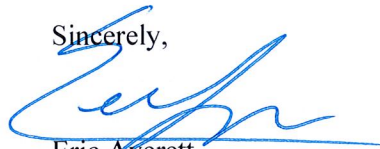
We understand the KCWA has recently raised an additional concern not covered by the November 30 letter. This concern is regarding establishing a tiered structure for the allocation of Article 21 water.

As you know, Rosedale is a member unit of the KCWA and receives its State Water Project supplies pursuant to its contract with the KCWA, just like all other member units. Nothing in the Project gives Rosedale the ability to receive or take more than its contractual allocation of Article 21 supplies. While the Project facilities may be used to recharge Article 21 supplies, the GWJPA has not requested nor expects any waiver or modification to the current KCWA policies governing the use of the California Aqueduct or the allocation of Article 21 water supplies. As such, the implementation of the Project will not affect any other member unit's (or any other entity's) contractual rights with respect to Article 21 supplies.

In closing, we consider the two issues raised by KCWA to be more contractual and policy in nature than directed at any particular environmental concerns disclosed by the FEIR. Accordingly, we are not inclined to enter into a tolling agreement so that the FEIR may be challenged. We look forward to continued work with KCWA to identify and resolve any issues related to the Project. It would be helpful to the GWJPA if KCWA's issues could be articulated in writing so that we may address and resolve them as expeditiously as possible.

Please provide a copy of this letter to the KCWA Board of Directors in advance of its January 28 meeting. Should you have any questions, please do not hesitate to contact me at (661) 589-6045.

Sincerely,



Eric Averett
GWJPA General Manager

cc: KCWA Board of Directors
Rosedale-Rio Bravo Water Storage District
Irvine Ranch Water District
Braun Gosling

ATTACHMENT 1

Rosedale-Rio Bravo Water Storage District (Rosedale) and
Irvine Ranch Water District (IRWD) Coordination with
Kern County Water Agency (KCWA) on
Kern Fan Groundwater Storage Project

January 26, 2021

Before California Water Commission (CWC) Funding Award	
February 2018	<ul style="list-style-type: none"> Eric Averett call with Curtis Creel to brief Kern County Water Agency (KCWA) on the Kern Fan Project KCWA's main concern was hydraulics in the California Aqueduct and potential impacts on the CVC from a new turnout. Rosedale and IRWD committed to doing a hydraulic study as part of pre-design.
July 2018	<ul style="list-style-type: none"> CWC awarded conditional Water Storage Investment Program (WSIP) funding to the Kern Fan Project
After California Water Commission Funding Award	
October 2018	<ul style="list-style-type: none"> Kern Fan Project agreement with Hallmark Group; Project Manager Jim Beck (former KCWA General Manager) to assist in coordinating with KCWA and California Department of Water Resources (DWR) on turnout and exchange related agreements.
November 2019	<ul style="list-style-type: none"> Jim Beck met with Curtis Creel and Holly Melton to discuss the project
February 2019	<ul style="list-style-type: none"> Project briefing at DWR, California Department of Fish and Wildlife (CDFW) and KCWA (Holly Melton). Discussion of necessary turnout and exchange related agreements.
February 2019	<ul style="list-style-type: none"> Rosedale and IRWD requested a meeting with the policy makers at KCWA to provide a briefing on the project. KCWA informed Kern Fan Project that DWR said no new turnouts would be approved in Reach E.
March 8, 2019	<ul style="list-style-type: none"> Meeting between KCWA Board members, Rosedale, IRWD and Hallmark. KCWA participants included General Manager Curtis Creel, Director Philip Cerro, Director Bill Wulff, Director Ted Page, General Counsel Amelia Minaberrigarai and Holly Melton. Kern Fan Project provided a project briefing and status update KCWA expressed concerns over Article 21 definition – Kern Fan Project clarified Article 21 would be through Rosedale or DRWD after other demands/requests are met. Rosedale and IRWD agreed that there would be no impacts to KCWA or member units. Any constraints would be defined. Agreed to coordinate with KCWA/DWR/State Water Project (SWP) Contractors.

	<ul style="list-style-type: none"> • Rosedale and IRWD offered to bring in MBK Engineers to explain the overall project modeling and assumptions regarding Article 21 – MBK report was sent to KCWA staff. • Discussed need to future obligation on KCWA or its member units to provide public benefits for the Kern Fan Project • Hydraulic Analysis to be coordinated with KCWA. Hydraulic modeling results from GEI/NHC to be shared with KCWA staff and DWR. Rosedale and IRWD offered a briefing to KCWA on modeling results. • Language regarding scheduling of water would be included in the agreements with DWR, CDFW. • Rosedale and IRWD committed to continuing work with DWR and KCWA on evaluating options on turnout and reach. • KCWA agreed to schedule a Member Unit Management meeting to introduce the project.
March 28, 2019	<ul style="list-style-type: none"> • Holly Melton notified Rosedale and IRWD that she had contacted DWR and submitted a request to construct a new turnout.
April 2019	<ul style="list-style-type: none"> • Holly Melton informed Kern Fan Project that she met with Martin Vargas regarding the turnout information, and that no new turnouts would be approved below checks 23-25. • Holly agreed to check on use of the existing Rosedale turnout stub. • Rosedale and IRWD informed Holly of the intent to raise the policy issues at high level at DWR.
May 2019	<ul style="list-style-type: none"> • Holly reported that she spoke with Joel Ledesma at DWR who reiterated DWR position of no new turnouts. Joel said he would be briefing Karla Nemeth in advance of the requested Project meeting with DWR. • Curtis Creel stated Kern Fan Project could construct new turnout if it could be operated without impacts.
June 4, 2019	<ul style="list-style-type: none"> • KCWA submitted a formal request to DWR to conduct a feasibility analysis for the proposed new turnout. • Rosedale agreed to reimburse KCWA for the \$60,000 cost.
June 2019	<ul style="list-style-type: none"> • Curtis Creel reported that he spoke with Joel Ledesma at DWR and said that new turnouts don't affect the Aqueduct. The real issue is timing of use and operations. Could be operated to minimize impacts.
July 14-15, 2019	<ul style="list-style-type: none"> • Holly reported she would be participating in a call with John Leahigh and Ted Craddock at DWR on 7/15. • 7/15 call was held where DWR had key questions and requested a Project meeting. • Holly agreed to take the lead on scheduling a meeting with KCWA/DWR and Kern Fan Project.
July 22, 2019	<p>KCWA (Melton, Wallace)/Kern Fan Project Meeting</p> <ul style="list-style-type: none"> • Eric Averett confirmed that only the Kern Fan Project facilities would be used for storing unallocated Article 21 water. • Holly Melton confirmed that the new turnout could be used not only for the unallocated Article 21 water. She stated that the turnout might only be approved by DWR for lower priority use, but DWR has not provided specific language.

	<ul style="list-style-type: none"> Rosedale and IRWD stated that the purpose of the July 26 meeting with DWR is to better understand DWR's issues and what modeling would be helpful to address them.
July 26, 2019	<p>DWR meeting with KCWA, Rosedale and IRWD. DWR participants included Molly White, Mike Miersma, Pedro Martinez, David Rizzardo and Ted Craddock. KCWA participants included Holly Melton and Craig Wallace</p> <ul style="list-style-type: none"> Several Agreements will be required: <ul style="list-style-type: none"> Anticipate two Point of Delivery Agreements – one with KCWA and one with DRWD Public Benefits – CDFW and DWR Operational Exchange Agreement Turn-In and Turn-Out Agreements Agreed to establish a work group to evaluate the project, capacities etc. Conduct a table-top exercise in October/November 2019
September 20, 2019	<p>DWR/KCWA/Kern Fan Project meeting</p> <ul style="list-style-type: none"> DWR briefing on Article 21, capacity, subsidence and risk evaluation Craig Wallace asked how the unallocated Article 21 request would happen. Response--- that Article 21 requests will happen as usual. Unallocated would be only once the Article 21 requests have been fulfilled. Rosedale--- proposed a simplified structure. Rosedale would have a standing request and it would be a function of when supplies exceed demand. Holly Melton stated Article 21 is reviewed on a weekly basis and agreed it need to be kept simplified. Agreed to have MBK Engineers send CalSIM 2 modeling and GEI/NHC to send hydraulic modeling to DWR DWR to provide historical data on Article 21 Schedule Table Top meeting in November 2020
January 15, 2020	<ul style="list-style-type: none"> KCWA staff requested briefing by MBK Engineer on CalSIM 2 modeling Table-top exercise with DWR still pending. Now planned for February/March 2020
January 21, 2020	<ul style="list-style-type: none"> Rosedale and IRWD met with DWR and California Water Commission to request DWR's resources and support in convening the workgroup, evaluating the project and moving it forward. Kern Fan Project agreed to develop principles for terms for the Turnout and Exchange Agreements DWR appointed David Okita as point person for coordination with DWR on all WSIP Projects.
March 2020	<ul style="list-style-type: none"> Rosedale and IRWD developed draft principles for the Turnout and Exchange for DWR review
April 9, 2020	<ul style="list-style-type: none"> KCWA review and input on draft principles requested. KCWA agreed to review by end of April 2020 Agreed that Kern Fan Project EIR would cover up to the 1:1 exchange with Oroville. DWR to handle CEQA coverage for release of pulse flows.
May 18, 2020	<p>DWR, KCWA, Kern Fan Project Meeting</p> <ul style="list-style-type: none"> Developed common understanding of Article 21 and process for obtaining it Reviewed turnout, SWP operations and DWR considerations

	<ul style="list-style-type: none"> • Already established procedures for KCWA turnouts - Turnout is functionally equivalent to use of other turnouts from an operational perspective and should be treated no differently. Subject to provisions of SWPAO contracts. • Focused on what analyses would be needed for the turnout • Agreed to form two small workgroups i) Article 21 and ii) turnout evaluation.
May, 2020	<ul style="list-style-type: none"> • KCWA provides comments on agreement principles • Incorporated into final agreement principle dated 5/12/2020
June 16, 2020	<p>Turnout Group Meeting (DWR/KCWA/Rosedale/IRWD/Modelers)</p> <ul style="list-style-type: none"> • Reviewed the HEC RAS model developed for subsidence studies – has been modified to evaluate the new turnout. Agreed that next runs would assume DWR rehab of subsidence problems • DWR to work with KCWA on assumptions on turnout and turn-in flows
June 18, 2020	<p>DWR WSIP Joint Meeting (KCWA participant)</p> <ul style="list-style-type: none"> • Reviewed pulse flow exchange concept
June 25, 2020	<p>Oroville Exchange Workshop with all WSIP Projects, DWR – included Craig Wallace, KCWA</p> <ul style="list-style-type: none"> • John Leahigh, DWR reported the Oroville pulse flows would be complex but there is a path forward. • May need to update CalSIM 2 baselines to include new bio-ops, ITP and COA
July 25, 2020	<p>Turnout Meeting – DWR/KCWA/HDR</p> <ul style="list-style-type: none"> • DWR’s consultant HDR reported favorable to use turnout. 300 cfs ok, 500 cfs could be an issue, but only using preliminary data • Next scenarios to run include specific diversions to KCWA with and without turnout. • Place turnout 500 ft upstream of CVC which GEI/NHC analysis showed would not create CVC impacts • Martin Vargas to correlate GEI analysis with HDR model • Turnouts not modeled explicitly in HDR model, but HECRAS can be adapted for specific scenarios. Rosedale agreed to execute variance with GEI/NHC to do additional hydraulic modeling • Agreed HDR/DWR would re-run peak summer run with 421 cfs turnout and other turnout demands with 400 and 500 cfs • Agreed to run the hydraulic model iteratively to verify minimum distance between proposed new turnout and CVC using head conditions to be provided by DWR.
August 4, 2020	<p>DWR Draft Concept Paper released – Decision Support for the WSIP Pulse Flow Decision Making Process</p>
August 11, 2020	<p>Joint WSIP Meeting with DWR</p> <ul style="list-style-type: none"> • Reviewed concept paper • Next steps to update CalSIM 2 for all projects
September 15, 2020	<p>Draft WSIP Oroville Pulse Flow Exchange Paper released by DWR</p>
September 29, 2020	<p>Joint WSIP Meeting with DWR</p> <ul style="list-style-type: none"> • Reviewed Oroville Pulse Flow Exchange Paper
November 20, 2020	<p>DWR WSIP Pulse Flow Risk Mitigation for SWP paper released</p>

Oct/Nov 2020	<p>Aqueduct Turnout</p> <ul style="list-style-type: none"> • DWR working with HDR and KCWA to get California Aqueduct flow, elevation and turn in/turn out flow scenarios to have NHC run them in the 3D model. • DWR identified 4-5 scenarios to run, to confirm with KCWA that they agree that the scenarios are the conditions they would be concerned about
January 2021	<p>Aqueduct Turnout</p> <ul style="list-style-type: none"> • DWR proposing to model the configuration and data available for the CVC facilities explicitly in HECRAS, rather than generate a stage/flow relationship. DWR estimated the work to build the CVC turnout(s) into the model (including QC and testing) will take about 40 hrs. • Additional time needed to run the simulations KCWA requested.
January 21, 2021	<p>DWR released Draft WSIP Pulse Flow Project Agreement Outline.</p> <ul style="list-style-type: none"> • Meeting scheduled for February 2021