

# ***San Gorgonio Pass Water Agency***

**DATE:** February 24, 2025

**TO:** Board of Directors

**FROM:** Lance Eckhart, General Manager

**BY:** Emmett Campbell, Senior Water Resources Planner

**SUBJECT:** Consideration and Approval of a 3,000 Acre-Foot Water Purchase from the City of Yuba City

## **RECOMMENDATION**

Authorize the General Manager to execute a Water Transfer Agreement with the City of Yuba City for the purchase of 3,000 acre-feet of carryover water at a rate of \$225 per acre-foot. Additionally, authorize the General Manager to complete all necessary documentation required by the Department of Water Resources, which may include any non-substantive revisions to the agreement between the City of Yuba City and the San Gorgonio Pass Water Agency.

## **PREVIOUS CONSIDERATIONS**

- No Previous Considerations

## **BACKGROUND AND ANALYSIS**

As of February 20, 2025, the Department of Water Resources (“DWR”) has set the State Water Project (“SWP”) allocation at 20%. Currently, many reservoirs throughout the state are at or near capacity, with the San Luis Reservoir approaching full storage. At the start of 2025, there was approximately 800,000 acre-feet of carryover water, increasing the likelihood that carryover stored in San Luis Reservoir could “spill” or be reclassified into Table A water.

To mitigate the risk of losing San Gorgonio Pass Water Agency (SGPWA) carryover water due to a spill, staff is proactively clearing out the Agency’s carryover storage. It is anticipated that all carryover water will be fully delivered by the end of February 2025. With the current 20% allocation, and the water stored in the Beaumont Basin, SGPWA’s 2025 water portfolio includes approximately 10,000 acre-feet. However, the total water order demand for 2025 current year water is 12,900 acre-feet, leaving a deficit of approximately 3,000 acre-feet. To bridge this gap, SGPWA must procure additional water from other State Water Project contractors with surplus supplies available for sale.

One such potential seller is the City of Yuba City (“Yuba”), which has 3,000 acre-feet of carryover water available for sale. SGPWA and Yuba have been negotiating the terms of a water transfer agreement, which are outlined as follows:

1. Yuba will transfer 3,000 acre-feet of carryover water to SGPWA.

2. SGPWA will take delivery of as much of this water as possible before any spill event occurs.
3. For each acre-foot successfully delivered, SGPWA will pay Yuba \$225.
4. SGPWA will not be required to pay for any Yuba carryover water that spills.
5. The Agency anticipates starting delivery of this purchased water in early March 2025, and completing the delivery in April. If all 3,000 acre-feet are successfully delivered, the total cost of the transfer will amount to \$675,000.

This agreement provides an opportunity for SGPWA to secure additional water supply at a predictable cost while mitigating the risks associated with potential spills at San Luis Reservoir.

### **STRATEGIC PLAN NEXUS**

The water purchase from Yuba helps advance various aspects of the Agency's Strategic Plan, including:

Strategic Goal 1: Align with the current and future water landscape, supporting the region's long-term needs by diversifying the local supply portfolio and advancing water sustainability.

Objective 1 – Establish relationships and expand collaborative opportunities at the local, regional, state, and federal levels that will enhance the water supply of the region.

### **CEQA ANALYSIS**

The execution of the Agreement is statutorily exempt from CEQA under State CEQA Guidelines section 15282(u), which exempts temporary changes in the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights. Here, the Project involves the one-time exchange of a certain amount of the Yuba's water for the year 2025. The Project merely changes the place of use, and does not involve construction of any additional facilities to service this transfer of water. As the Project involves a one-time exchange, it also satisfies the definition of "temporary change" under State CEQA Guidelines section 15282(u) pursuant to Water Code section 1728.

Additionally, the Project is categorically exempt from environmental review under CEQA pursuant to State CEQA Guidelines section 15301 (Class 1 – Existing Facilities), which exempts from CEQA the operation of existing public structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The Project will use existing facilities and will not require the construction of additional facilities to affect the delivery of the water.

Finally, the Project is exempt pursuant to State CEQA Guidelines section 15061(b)(3) which exempts those activities for which it can be seen with certainty that there is no

potential to result in significant environmental effects. The Project involves the transfer of an existing allocation of water within existing facilities.

### **FISCAL IMPACT**

The purchase price for the transferred water is \$225 per acre-foot. If all 3,000 acre-feet of transfer water is delivered, then the total cost to the Agency will be \$675,000.

This is considered a transfer from another State Water Contractor, so the final cost will be charged to the Debt Service Fund (the Red Bucket), line item 'Water Transfers' (line #172). The budget for FY24-25 is \$2.M; currently about \$1.95M has been spent.

### **ACTION**

Authorize the General Manager to execute a Water Transfer Agreement with the City of Yuba City for the purchase of 3,000 acre-feet of carryover water at a rate of \$225 per acre-foot. Additionally, authorize the General Manager to complete all necessary documentation required by the Department of Water Resources, which may include any non-substantive revisions to the agreement between the City of Yuba City and the San Geronio Pass Water Agency.

### **ATTACHMENTS**

1. Water Transfer Agreement Between City of Yuba City and San Geronio Pass Water Agency

## **TRANSFER AGREEMENT**

This Transfer Agreement (“Agreement”) is made and entered into as of February \_\_\_\_, 2025 (“Effective Date”), by and between the CITY OF YUBA CITY, a municipal corporation (“CITY”) and the SAN GORGONIO PASS WATER AGENCY, a public agency (“SGPWA”). CITY and SGPWA are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

### **RECITALS**

A. CITY provides retail water service to its customers. SGPWA is a regional water agency that provides water on a wholesale basis to retail water providers and other entities within its service area.

B. CITY has a long-term water supply contract (“Water Supply Contract”) with the Department of Water Resources of the State of California (“DWR”) that permits CITY to receive water supply, storage and conveyance services from the State Water Project (“SWP”). CITY has a contractual right to the delivery of 9,600 acre-feet (“AF”) per year (“AFY”) of water from the SWP in its Water Supply Contract.

C. SGPWA has a Water Supply Contract with DWR that permits SGPWA to receive water supply, storage and conveyance services from the SWP. SGPWA has a contractual right to the delivery of 17,300 AFY of water from the SWP in its Water Supply Contract.

D. The CITY’s and SGPWA’s respective Water Supply Contracts allow for the transfer of SWP water under certain conditions and subject to DWR approval. Specifically, Article 56(c) provides for the transfer of Article 56 Carryover Water from CITY to another SWP contractor such as SGPWA, in accordance with Article 56(c)(4).

E. In 2025, CITY has Article 56 Carryover Water available to it after its 2024 water use and has agreed to transfer up to 3,000 AF of this water (“Transfer Water”) to SGPWA in 2025, subject to the terms and conditions hereinafter set forth (“Transfer”).

F. The Parties wish to enter into this Agreement to address water supply needs for this current year. The Parties desire to work collaboratively to provide for the efficient use of water supplies, in areas of the state where water supplies are needed.

### **AGREEMENT**

NOW THEREFORE, in consideration of the foregoing recitals and the promises and covenants contained herein, the Parties agree as follows:

1. Term. Subject to DWR’s approval, the term of this Agreement shall commence on the Effective Date and terminate on June 30, 2025, or upon satisfaction of the Parties’ respective obligations pursuant to this Agreement, whichever is sooner (“Term”).

2. Transfer and Release of Transfer Water in 2025. CITY shall take any and all actions necessary to make all of the Transfer Water available at the Point of Transfer, as defined in Paragraph 3, prior to June 30, 2025. SGPWA shall take as much Transfer Water at the Point of Transfer as is available under the terms of this Agreement, based upon operations of San Luis Reservoir and before any spill of San Luis Reservoir.

3. Point of Transfer

(a) Both Parties have access to water supplies and conveyance capacity in the California Aqueduct and San Luis Reservoir facilities, which are part of the SWP. For accounting and operational purposes, it is hereby acknowledged that the Transfer will be made in San Luis Reservoir, which shall be deemed to be the “Point of Transfer” of the Transfer Water.

(b) Neither Party is making any representation or warranty concerning the quality of the water transferred under this Agreement.

4. Cooperation in Obtaining DWR Approvals

(a) The Parties will take the necessary actions to fulfill their respective obligations, including but not limited to their respective obligations in coordinating with DWR to obtain DWR’s approval of the Transfer.

(b) As soon as practicable after the Effective Date, CITY will submit a request to DWR that DWR deliver the Transfer Water to SGPWA pursuant to the delivery schedule agreed upon by the Parties. CITY will coordinate with DWR to confirm the quantity of Transfer Water available for delivery to SGPWA pursuant to this Agreement.

(c) The Parties will cooperate as follows:

(i) Coordination with DWR for processing and obtaining DWR approvals necessary for the approval and implementation of this Agreement.

(ii) Coordination with DWR for delivery of the Transfer Water.

(iii) CITY, in coordination with SGPWA, will submit the water delivery schedule to DWR for delivery of the Transfer Water.

5. Water Availability. SGPWA will coordinate with DWR to track Transfer Water availability before any spill occurs at San Luis Reservoir. SGPWA has no obligation to pay for any Transfer Water that is not available and released from San Luis Reservoir to SGPWA due to the operations of the SWP that cause San Luis Reservoir to spill. CITY has no obligation to provide SGPWA water to make up for any portion of the Transfer Water that is unavailable due to the operations of the SWP that cause San Luis Reservoir to spill.

6. Article 21 Water. If DWR makes “Article 21 Water” available during the Term of this Agreement, SGPWA will prioritize the delivery of the available Article 21 Water, which will

result in suspending or reducing the delivery of Transfer Water as necessary. Once the availability of Article 21 Water ends, SGPWA will resume delivery of any remaining Transfer Water that did not spill.

7. Payment and Reconciliation

(a) The purchase price for Transfer Water shall be Two Hundred and Twenty-Five Dollars (\$225.00) per AF.

(b) Within thirty (30) days after SGPWA has acquired all Transfer Water that will be available by June 30, 2025, or at the conclusion of the Transfer of the full amount of Transfer Water during the Term, SGPWA shall pay CITY the purchase price for all Transfer Water available and released from San Luis Reservoir to SGPWA. The total cost shall be calculated by multiplying the purchase price per AF by the total acre-feet of Transfer Water available and released from San Luis Reservoir to SGPWA.

8. Costs and Expenses

(a) SGPWA will be responsible for the following costs and expenses:

(i) Costs and expenses in connection with taking delivery of the Transfer Water at the Point of Transfer.

(ii) DWR's variable charges for conveying the Transfer Water from the Point of Transfer to SGPWA's service area.

(iii) SGPWA's internal and transaction costs in connection with SGPWA's activities under this Agreement including, but not limited to, costs for review and processing of required agreements, environmental documents, and other transaction costs.

(b) CITY will be responsible for the following costs and expenses:

(i) Costs and expenses in connection with delivering the Transfer Water to the Point of Transfer.

(ii) California Environmental Quality Act (CEQA) compliance costs per Paragraph 8(c).

(iii) CITY's internal and transaction costs in connection with CITY's activities under this Agreement including, but not limited to, costs for review and processing of required agreements, environmental documents, and other transaction costs.

9. Approvals and Requirements. The Transfer and Exchange provided for in this Agreement shall be subject to satisfaction of all applicable approvals and requirements and shall be governed by the terms and conditions of such approvals and any other applicable legal requirements. Each Party is responsible for satisfying their respective requirements, as applicable, including but not limited to the following:

- (a) complying with each Party's respective Water Supply Contract;
- (b) obtaining all permits, consents, entitlements, and approvals necessary to perform this Agreement; and
- (c) fully and completely complying with the California Environmental Quality Act ("CEQA"). The lead agency for the purposes of CEQA will be SGPWA. The Parties shall cooperate with each other and DWR in determining and completing any environmental reviews associated with the activities under this Agreement.

10. Conditions Precedent. This Agreement is subject to the following condition precedent:

(a) DWR's written approval of the Transfer. CITY and SGPWA anticipate that DWR's approval will be provided in the form of a Change in Point of Delivery Agreement ("DWR Approval Agreement"). In the event of a conflict between the terms of this Agreement and the DWR Approval Agreement, the terms of the DWR Approval Agreement shall govern.

(b) In the event DWR does not approve this Agreement, or does not provide approval with sufficient time to complete the Transfer by June 30, 2025, then either Party may terminate this Agreement prior to expiration of the Term.

11. Termination.

(a) This Agreement may be terminated in accordance with the following:

(i) Default. In the event a Party fails to perform any of its obligations under this Agreement ("Defaulting Party"), the other Party ("Non Defaulting Party") may demand in writing that the Defaulting Party cure such non-performance. The Defaulting Party shall have 90 days after receipt of such demand to cure the default. In the event the Defaulting Party fails to cure the default within the 90 day period, the Non Defaulting Party may terminate this Agreement and take any and all actions in law or in equity which may be available to enforce this Agreement.

(ii) Mutual consent. This Agreement may be terminated at any time by mutual written consent of both Parties.

(iii) Failure of One or More Conditions Precedent. In the event any condition precedent to this Agreement has not been satisfied by April 1, 2025, due to circumstances outside of the responsibility or control of the Parties, as applicable, the Parties will meet and confer to discuss whether to amend, suspend, or terminate this Agreement. If mutual agreement is not reached on or before April 15, 2025, then either Party may terminate this Agreement.

12. Force Majeure. The respective obligations of each party shall be suspended while it is prevented from complying by acts of God, war, riots, civil insurrection, acts of civil or military authority, fires, floods, earthquakes, labor accidents or incidents, rules and regulations of any governmental agency (other than the Parties themselves), or other cause of the same or other character any of which are beyond the reasonable control of either Party (collectively, "Force

Majeure”). In the event of a suspension due to the Force Majeure, the Party whose obligations are suspended shall promptly notify the other Party in writing of such suspension and the cause and estimated duration of such suspension.

13. Defense. In the event of any legal action by a third party to challenge this Agreement and/or the Transfer described herein, the Parties agree to cooperate in the defense thereof and to share equally in the costs of such defense, utilizing counsel mutually acceptable to the Parties.

14. Power and Authority to Execute and Perform this Agreement. Each Party has the power and authority to enter into this Agreement and to perform its obligations and all necessary approvals and authorizations have been obtained for entering into this Agreement.

15. General Provisions

(a) Remedies Not Exclusive. Remedies provided in this Agreement for enforcement of its terms are intended and shall be construed as cumulative rather than exclusive and shall not be deemed to deprive either Party from also using any other remedies provided by this Agreement or by law.

(b) Subject to Applicable Law. The Parties acknowledge and agree that this Agreement and the rights and obligations of the Parties shall be subject to the laws governing public agencies as they now exist and as they may be amended or codified by the Legislature of the State of California.

(c) Entire Agreement. This Agreement contains the entire understanding between the Parties with respect to its subject matter, and supersedes all prior agreements, oral or written, and all prior or contemporaneous discussions or negotiations between the Parties. This Agreement cannot be amended except in writing signed by both Parties.

(d) No Waiver. Any failure or delay on the part of either Party to exercise any right under this Agreement shall not constitute a waiver of the right and shall not preclude such Party from exercising or enforcing the right, or any other provision of this Agreement, on any subsequent occasion.

(e) Notices. All notices or other communications required or desired to be given pursuant to this Agreement shall be in writing and shall be delivered in person, by email, or sent by a reputable overnight courier service providing delivery confirmation. Each such notice or communication shall be deemed to be duly given when hand-delivered or one day after being emailed or deposited for next day delivery with an overnight courier. Each such notice or communication shall be addressed to the Parties at their respective addresses set forth next to their signatures below, or such other address as a Party notifies the other in writing.

(f) Headings; Section References. Captions and headings appearing in this Agreement are inserted solely as reference aids for ease and convenience; they shall not be deemed to define or limit the scope or substance of the provisions they introduce, nor shall they be used in construing the intent or effect of such provisions.



(g) Severability. If any provision of this Agreement is finally determined by a court to be invalid or unenforceable as written, the provision shall, if possible, be enforced to the extent reasonable under the circumstances and otherwise shall be deemed deleted from this Agreement. The other provisions of this Agreement shall remain in full force and effect so long as the material purposes of the Agreement and understandings of the Parties are not impaired.

(h) Binding Effect on Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and permitted assigns.

(i) Attorneys' Fees. In the event that any action or proceeding is brought to enforce one or more of the terms of this Agreement, to restrain an alleged violation of this Agreement, or to determine the validity of this Agreement or any part, the prevailing Party in any such action or proceeding shall be entitled to recover from the other its reasonable costs and attorneys' fees, in addition to any other remedies available to it in law or equity. If both Parties are successful in one or more causes of action during any such proceeding, the costs and fees shall be apportioned as determined by the court.

(j) Governing Law and Venue. This Agreement is a contract governed in accordance with the laws of the State of California. The Parties hereby agree that venue for any action brought to enforce the terms of this Agreement shall be in a court of competent jurisdiction in the County of Riverside, California, and consent to the jurisdiction thereof.

(k) Counterparts; Delivery by Email; Electronic Signatures. The Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when taken together shall constitute one and the same document. Counterparts may be delivered via electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

*[Signatures follow on the next page]*

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

**City of Yuba City**

**SAN GORGONIO PASS WATER AGENCY**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

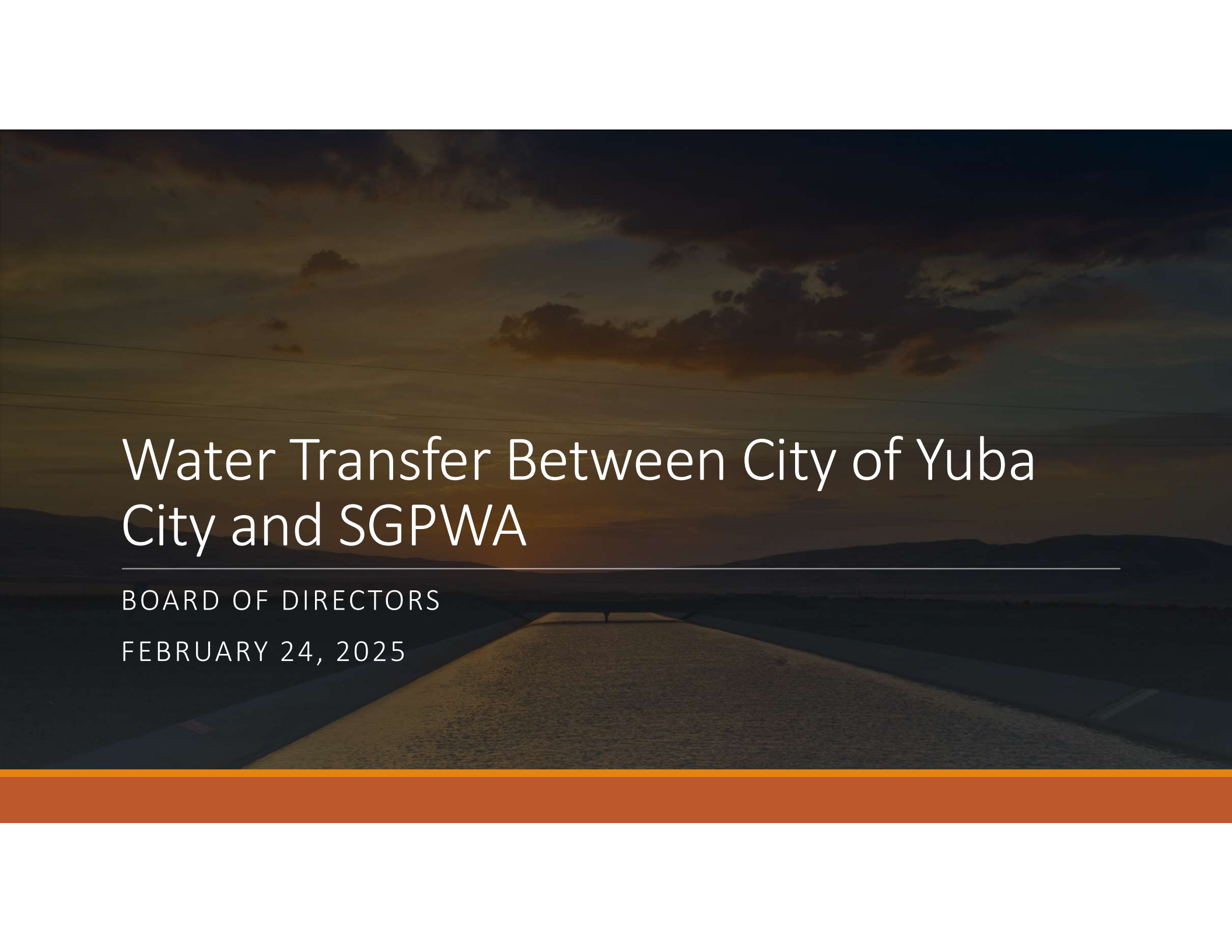
Diana Langley  
City Manager

Lance Eckhart, PG, CHG  
General Manager/Chief Hydrogeologist

City of Yuba City  
1201 Civic Center Boulevard  
Yuba City, CA 95993  
Email: [dlangley@yubacity.net](mailto:dlangley@yubacity.net)

San Gorgonio Pass Water Agency  
1210 Beaumont Ave.  
Beaumont, CA 92223  
Email: [LEckhart@sgpwa.com](mailto:LEckhart@sgpwa.com)

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# Water Transfer Between City of Yuba City and SGPWA

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BOARD OF DIRECTORS

FEBRUARY 24, 2025

## 2025 Water Orders

All Values in Acre-Feet

|              | Direct Delivery | Current Year Replenishment | Pre-Stored Water |
|--------------|-----------------|----------------------------|------------------|
| Banning      | 0               | 1,500                      | 250              |
| BCVWD        | 0               | 11,200                     | 5,000            |
| YVWD         | 200             | 0                          | 0                |
| <b>Total</b> | <b>200</b>      | <b>12,700</b>              | <b>5,250</b>     |

Current year demands for water in the SGPWA service area are about 13,000 acre-feet

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## 2025 Water Supply

All Values in Acre-Feet

|                         | 20%          |
|-------------------------|--------------|
| Table A                 | 5,400        |
| Carryover               | 1,200        |
| Nickel Water            | 1,700        |
| Dry Year Water          | 300          |
| <b>Pre-Stored Water</b> | <b>1,500</b> |
| AVEK Return             | 3,200*       |
| Total Available Supply  | 10,000       |

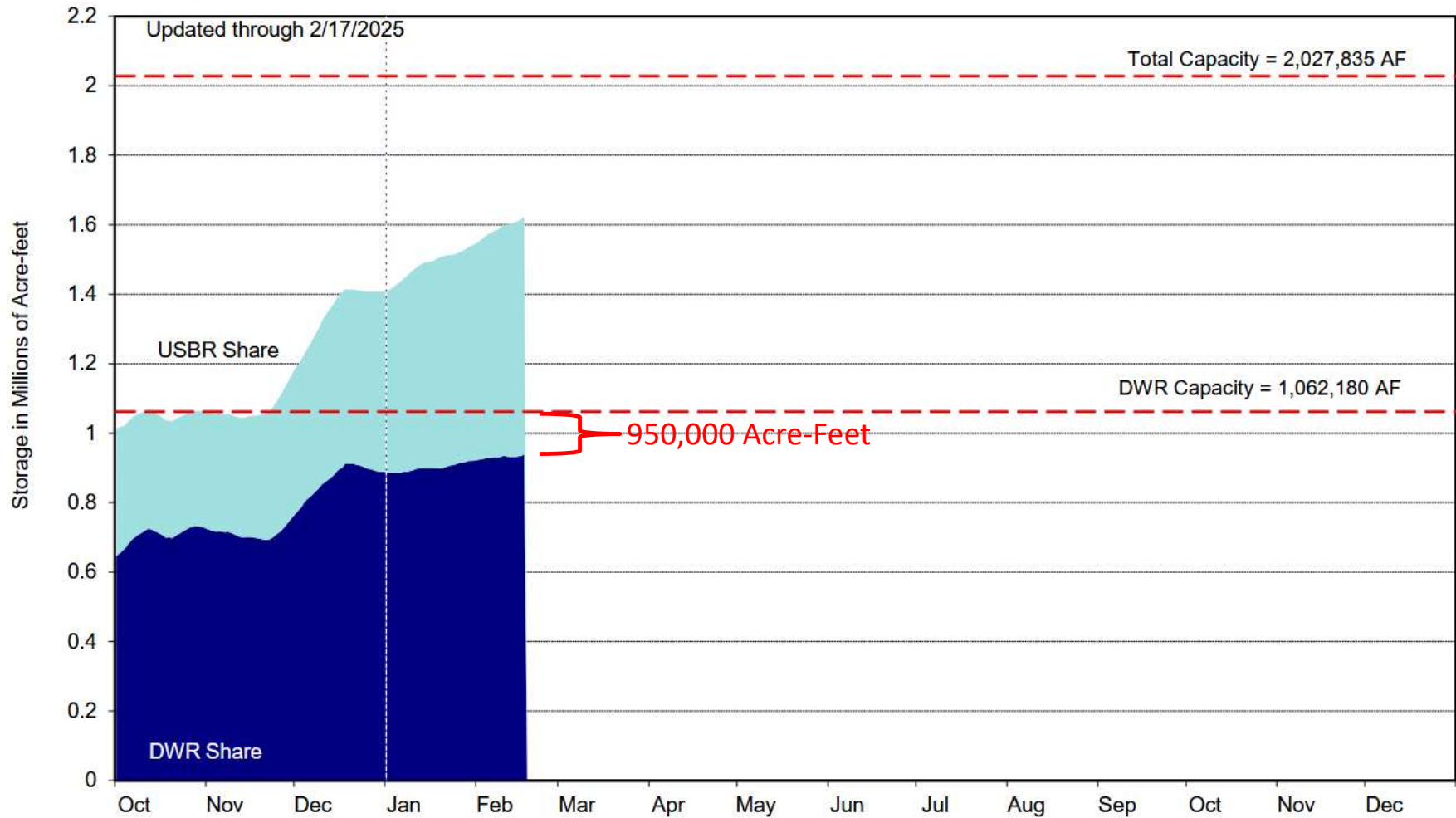
\* AVEK return water is available in 30% or higher allocations

At a 20% allocation, the Agency has a about 10,000 acre-feet of available supply to meet water orders. This leaves a deficit of around 3,000 acre-feet.

## San Luis Reservoir Storage

Combination Water/Calendar Year

|                 | State     | Federal |
|-----------------|-----------|---------|
| Current Storage | 950,000   | 690,000 |
| Max Storage     | 1,062,000 | 965,000 |
| Unused Storage  | 112,000   | 305,000 |



# City of Yuba City has 3,000 acre-feet of water available for sale

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2. SGPWA will take delivery of as much of this water as possible before any spill event occurs.
3. For each acre-foot successfully delivered, SGPWA will pay Yuba \$225.
4. SGPWA will not be required to pay for any Yuba carryover water that spills.
5. The Agency anticipates starting delivery of this purchased water in early March 2025, and completing the delivery in April. If all 3,000 acre-feet are successfully delivered, the total cost of the transfer will amount to \$675,000.

# Recommendation

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